

GOVERNMENT  
OF  
THE DISTRICT OF COLUMBIA

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BOARD OF ZONING ADJUSTMENT

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PUBLIC HEARING

+ + + + +

TUESDAY

SEPTEMBER 19, 2000

+ + + + +

The Public Hearing convened in Room 220 South, 441  
4th Street, N.W., Washington, D.C. 20001, pursuant to notice at  
9:30 a.m., Robert Sockwell, Vice Chairperson, presiding.

BOARD OF ZONING ADJUSTMENT MEMBERS PRESENT:

ROBERT N. SOCKWELL	Vice Chairperson
RODNEY L. MOULDEN	Board Member
ANN RENSHAW	Board Member

ZONING COMMISSION MEMBER PRESENT:

ANTHONY J. HOOD	Commissioner
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OFFICE OF ZONING STAFF PRESENT:

Jerrily R. Kress	Director
Sheri Pruitt	Secretary, BZA
Beverly Bailey	Zoning Specialist
Paul Hart	Zoning Specialist
John Nyarku	Zoning Specialist

OTHER AGENCY STAFF PRESENT:

Ellen McCarthy	Office of Planning
Maxine Brown-Roberts	Office of Planning
Steven Cochran	Office of Planning

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## P-R-O-C-E-E-D-I-N-G-S

1  
2 VICE CHAIRMAN SOCKWELL: Good morning, ladies and  
3 gentlemen. This is the September 19th, year 2000, public hearing  
4 of the Board of Zoning Adjustment of the District of Columbia. My  
5 name is Robert Sockwell, Vice Chairperson, sitting in for Sheila  
6 Cross Reid, Chairperson.

7 Joining me today is Ann Renshaw, Rodney Moulden  
8 representing the National Capital Planning Commission, and  
9 representing the Zoning Commission is Anthony J. Hood.

10 Copies of today's hearing agenda are available to  
11 you. They are located to my left near the door. All persons  
12 planning to testify, either in favor of or in opposition, are to  
13 fill out two witness cards.

14 These cards are located on each end of the table in  
15 front of us. On coming forward to speak to the Board, please  
16 give both cards to the Reporter, who is sitting to my right.

17 Order of procedure for appeal cases, those cases on  
18 appeal, is, one, statement of witnesses of the appellant; two, the  
19 Zoning Administrator or other government official; three, the  
20 owner, lessee, or operator of the property involved, if not the  
21 appellant; the ANC within which the property is located; the  
22 intervenor's case; and, finally, rebuttal and the closing remarks  
23 by the appellant.

24 Order of procedure for a special exception in  
25 variance cases is, one, statement of witnesses of the applicant.

1 Two, government reports, including the Office of Planning,  
2 Department of Public Works, et cetera, and cross-examinations.

3 Three, the report of the Advisory Neighborhood  
4 Commission, ANC, and cross-examinations.

5 Four, parties or persons in support, and cross-examinations.

6 Five, parties or persons in opposition, and cross; and, six,  
7 closing remarks by the applicant.

8 Cross-examination of witnesses is permitted by the  
9 applicant or parties. The ANC within which the party is located  
10 is automatically a party in the case.

11 The record will be closed at the conclusion of each  
12 case, except for any material specifically requested by the Board,  
13 and stuff will specify at the end of the hearing exactly what is  
14 expected.

15 The decision of the Board in these contested cases  
16 must be based exclusively on the public record. To avoid any  
17 appearance to the contrary, the Board requests that persons  
18 present not engage the Members of the Board in conversation.

19 Please turn off all beepers and cell phones, or  
20 except them to vibrate at this time so as not to disrupt these  
21 proceedings. The Board will now consider any preliminary matters.  
22

23 Preliminary matters are those which relate to  
24 whether a case will or should be heard today, such as a request  
25 for postponement, continuance, or withdrawal, or whether proper

1 and adequate notice of the hearing has been given.

2 If you are not prepared to go forward with the case  
3 today, or if you believe that the Board should not proceed, now is  
4 the time to raise such a matter. Does the staff have any  
5 preliminary matters?

6 MS. BAILEY: Yes, Mr. Chairman, the staff does  
7 have a preliminary matter, and it concerns application Number  
8 16597, Elaine Correra. Would the applicant please come forward,  
9 and you may have a seat, please, at the table.

10 Members of the Board, this case was advertised for  
11 a second story addition to an existing garage. The staff during  
12 the research on this project has discovered that there is a  
13 community based residential facility at the site.

14 It was referred to us by the Zoning Administrator.  
15 However, there is no mention of the CBR Act, and the staff is  
16 interested in perhaps getting a little bit additional information  
17 from the applicant and for your discussion as to whether this case  
18 should go forward today, or whether it needs to go back to the  
19 Zoning Administrator's office for a second check to make sure that  
20 all the requested relief is correct, and the matter is before you  
21 at this time.

22 DIRECTOR KRESS: I would just like to add to that  
23 that what was advertised is what the Zoning Administrator  
24 forwarded and referred to us, which was a variance under 404 from  
25 the rear yard requirements.

1           It became clear though in reading the application  
2           that the proposed second story addition to this accessory garage,  
3           while allowed under the zoning codes, is supposed to be for a  
4           domestic person's use. And in this case, it is the applicant who  
5           is requesting use of this space.

6           So at the very minimum we are missing at least one  
7           variance request for this application. What we have in front of  
8           us is not sufficient in the Section 404.

9           VICE CHAIRMAN SOCKWELL: All right.

10          DIRECTOR KRESS: And in fact I would just go a step  
11          further and say that the staff is recommending that this be sent  
12          back to the ZA to explore further the addition to the garage, the  
13          variance with the rear yard, and any ramifications based on the  
14          community based residential facility. We think it needs more  
15          analysis. With that, I will turn it back to you, Mr. Chairman.

16          VICE CHAIRMAN SOCKWELL: Since the project was not  
17          advertised as a community based residential facility, it would  
18          stand to reason that those who might wish to testify or offer  
19          their opinions were not given proper information to base their  
20          decisions on.

21          And we would like for recommendations for proposed  
22          action from the Zoning Administrator to be very clear to the board  
23          on information that we feel that we should have in order to  
24          properly carry out our duties.

25          And I believe that we should refer this back for

1 additional study, and to clarify, and therefore it would be  
2 readvertised for the purpose of presenting the more factual  
3 statistics on what is proposed and what exists.

4 DIRECTOR KRESS: Is that a motion?

5 COMMISSIONER HOOD: Is that a motion?

6 VICE CHAIRMAN SOCKWELL: And this gentleman wishes  
7 to speak on behalf of the applicant.

8 MS. FISHER: That's correct. Good morning. My  
9 name is Kevin Fisher.

10 VICE CHAIRMAN SOCKWELL: And your address, sir?

11 DIRECTOR KRESS: Do we need to swear him in?

12 VICE CHAIRMAN SOCKWELL: No, he is not giving  
13 testimony.

14 DIRECTOR KRESS: All right.

15 MS. FISHER: I am the architect of record for this  
16 proposed addition, and I am failing to understand how we should  
17 have advertised this differently in our application.

18 The present building on this lot is a residence,  
19 but it is also being used as a care facility by Ms. Correra, who  
20 has been licensed since 1968 for that use. It does not change the  
21 nature of the building itself.

22 VICE CHAIRMAN SOCKWELL: This is quite true, sir.  
23 However, in the application form, or on the application form,  
24 which we have a copy of, the request is existing uses of building  
25 or property. It did not say how was the building constructed

1 initially.

2 It asks what the building is being used for.

3 MS. FISHER: A residence.

4 VICE CHAIRMAN SOCKWELL: And it is being used not  
5 as a single family residence, but a community based residential  
6 facility, with a certificate of occupancy for five units.

7 MS. FISHER: So we --

8 VICE CHAIRMAN SOCKWELL: As the existing  
9 -- well, it says -- well, for five residents I should say.

10 MS. FISHER: Yes.

11 VICE CHAIRMAN SOCKWELL: It is five residents on  
12 basement, and two other on first, and seven on second, which is 14  
13 people. And that a single family residence is generally not  
14 expected to have but a certain number of non-related persons  
15 within that domicile.

16 MS. FISHER: And what would that number be, sir?

17 VICE CHAIRMAN SOCKWELL: What does the ordinance  
18 say specifically?

19 MS. WILLIAMS: Six.

20 VICE CHAIRMAN SOCKWELL: And in this case it is a  
21 licensed facility, and single family residences don't have  
22 certificates of occupancy of this type.

23 MS. FISHER: Okay. Our application was based on  
24 Section 2500.4 --

25 VICE CHAIRMAN SOCKWELL: I understand that, and

1 that was your application to the Board of Zoning Adjustment. Your  
2 application for the building permit, which was permitted to the  
3 zoning division of the DCRA, which was then referred to the Board  
4 of Zoning Adjustment, is stating that the building is a single  
5 family residence, which it is not.

6 It is a community based residential facility, which  
7 is not the use. The use is that for which it carries a  
8 certificate of occupancy. Yes, it is and was constructed as a  
9 single family residence, and as a licensed architect myself, I  
10 understand exactly what you are saying.

11 MS. FISHER: Okay.

12 VICE CHAIRMAN SOCKWELL: And as one who deals with  
13 the process on a daily basis --

14 MS. FISHER: As do I.

15 VICE CHAIRMAN SOCKWELL: No, not as I do. Trust  
16 me. You design, and you go to the permit office and you deal with  
17 that. I deal with this because the Board of Zoning Adjustment  
18 first meets every week.

19 Second of all, because I deal with projects, and  
20 primarily very large ones, through the zoning office of the  
21 Department of Consumer and Regulatory Affairs; and, third, because  
22 it is my specific responsibility to know this ordinance virtually  
23 backwards and forwards, as opposed to just knowing the building  
24 code.

25 And you would not understand exactly unless you

1 know how the application forms are intended to be responded to.  
2 If this building were used as a grocery store the existing use of  
3 property would be listed as grocery store and not single family  
4 residence. It is used as what it is, and not as what the  
5 structure may appear to be.

6 MS. FISHER: Okay. I understand you.

7 VICE CHAIRMAN SOCKWELL: Thank you.

8 MS. FISHER: Okay. This was not an effort to  
9 deceive you in any way.

10 VICE CHAIRMAN SOCKWELL: I understand that. I  
11 understand that you didn't understand.

12 MS. FISHER: We brought it forth as the nature of  
13 the building.

14 VICE CHAIRMAN SOCKWELL: Right. But because the  
15 advertisement to the community should completely explain the uses,  
16 and people who may not know what goes on within the property,  
17 would have no way of knowing other than that which is written or  
18 their personal experience with the building itself.

19 We have to make sure that the community is noticed  
20 properly for the potential of objections and support.

21 MS. FISHER: What would you suggest that we do now,  
22 amend our application?

23 VICE CHAIRMAN SOCKWELL: I would move that this  
24 board continue this until it can be referred back to the zoning  
25 administrator for a correct referencing of the relief, and of the

1 existing facilities use; that your application, of course, would  
2 be amended to state what is actually there, and that this would be  
3 renoticed to the community.

4 MS. FISHER: Okay. So we should reapply under an  
5 amended application, or would you guys --

6 VICE CHAIRMAN SOCKWELL: We will refer it back to  
7 the zoning administrator, and I think the way the process would  
8 work the staff can explain that.

9 DIRECTOR KRESS: We will reprint that, but you do  
10 need to follow up with the zoning administrator, because this  
11 letter is a referral to you to bring to the BZA. So you need to  
12 follow up with the zoning administrator, and we will forward it to  
13 the zoning administrator.

14 But you need to follow up and then get that  
15 referral letter, and amend your application, and bring it back to  
16 us so that we can continue the process.

17 MR. MOULDEN: And, Mr. Chairman, you had a motion  
18 on that; is there a motion?

19 VICE CHAIRMAN SOCKWELL: Yes. I would move --

20 MR. HOOD: I will second it.

21 VICE CHAIRMAN SOCKWELL: All in favor or is there  
22 any discussion?

23 (No audible response.)

24 VICE CHAIRMAN SOCKWELL: All in favor?

25 (Ayes.)

1 VICE CHAIRMAN SOCKWELL: I would also suggest that  
2 if the property is to continue as a CDRF, and I know what it  
3 means, but we were using CDRF back there, and I just continued to  
4 do it. Your license expires, or your certificate expires the 1st  
5 of October. So you have to renew that.

6 MS. WILLIAMS: Yes.

7 VICE CHAIRMAN SOCKWELL: So I just wanted to make  
8 sure that you don't forget to do that.

9 MS. CORRERA: Okay. That's right. I will do that.

10 MS. FISHER: Thank you.

11 MS. WILLIAMS: Thank you very much.

12 MS. BAILEY: Members of the Board, the staff will  
13 record the vote as four to zero, a motion made by Mr. Sockwell,  
14 and seconded by Mr. Hood, and Ms. Renshaw, and Mr. Moulden, voted  
15 to continue this case and renounce the property.

16 The next case of the morning is application number  
17 16595. This is the application of Linwood and Connie Tipton,  
18 pursuant to 11 DCMR 3103.2, for a variance to exceed the allowable  
19 percentage of lot occupancy requirements under Section 403.2 to  
20 enlarge an existing detached garage and add an addition, deck, to  
21 the side of the premises in an R-4 District at premises 712 East  
22 Capitol Street, Northeast, at Square 897, Lot 801.

23 All those wishing to testify on this application,  
24 please rise to take the oath.

25 (All witnesses were sworn.)

1 MS. BAILEY: Mr. Chairman, this application, all of  
2 the bonding requirements have been met, and we have a letter from  
3 ANC-6B, and a waiver is needed to accept that into the record.  
4 Several items have been filed since the packages were submitted to  
5 you, including a letter from the Capitol Hill Restoration Society.

6 And again, all final requirements have been met,  
7 and this case is now ready for you to hear this morning. You may  
8 proceed, sir, with your case.

9 MR. GOLDSTEIN: We would like to begin  
10 by --

11 DIRECTOR KRESS: Perhaps we should do the waiver  
12 first.

13 VICE CHAIRMAN SOCKWELL: Yes. There is a motion  
14 that we waive the rule to accept the advisory neighborhood  
15 commission report into the record.

16 MR. HOOD: Seconded.

17 VICE CHAIRMAN SOCKWELL: All in favor?

18 (Ayes.)

19 MS. BAILEY: Your motion is moved and the motion is  
20 made and carried.

21 VICE CHAIRMAN SOCKWELL: Let's -- we want to do a  
22 general swearing in at this point just to get everybody. Did we  
23 swear in everybody this morning who might testify?

24 MS. BAILEY: Mr. Chairman, we sworn the architect  
25 and applicant. Are there others who need to testify in this case

1 who needs to be sworn? This is the first case of the morning, the  
2 Tipton case.

3 DIRECTOR KRESS: Or any other cases for the  
4 morning, and perhaps we could do the swearing in all together.  
5 Anyone who wishes to testify on any of their cases in front of the  
6 Board this morning, could you please rise.

7 (All witnesses were sworn.)

8 MR. GOLDSTEIN: My name is Howard Goldstein and I  
9 am the architect of record for this project, and with me is Connie  
10 Tipton, the owner of 712 East Capitol Street.

11 I would like to start off by requesting the  
12 opportunity to give you a copy of your presentation and reduced  
13 drawings, or reductions of the drawings, which are in the file.  
14 They were large drawings and I reduced them down to 17 by 11.

15 VICE CHAIRMAN SOCKWELL: The staff will pass them  
16 out to the board. Thank you.

17 MR. GOLDSTEIN: Also to my right, I brought cords  
18 showing the two drawings for your files, the large drawings, the  
19 ones that are being handed out now, which I will reference during  
20 this presentation.

21 VICE CHAIRMAN SOCKWELL: And before you begin, let  
22 me just remind you that for a variance, I am going to read Section  
23 3103.2 for variances.

24 Where by reason of exceptional narrowness,  
25 shallowness, or shape of a specific piece of property at the time

1 of the original adoption of the regulations, or by reason of  
2 exceptional topographical conditions, or other extraordinary or  
3 exceptional situation or condition of a specific piece of  
4 property, the strict application of any regulation adopted under  
5 D.C. Code da, da, da, da, would result in particular and  
6 exceptional practical difficulties to, or exceptional and undue  
7 hardship upon the owner of the property, to authorize upon an  
8 appeal relating to the property a variance from the strict  
9 application so as to relieve the difficulties or hardship,  
10 provided that the relief can be granted without substantial  
11 detriment to the public good, and without substantially impairing  
12 the intent, purpose, and integrity of the zoning plan as embodied  
13 in the zoning regulations and map.

14 MR. GOLDSTEIN: All right.

15 VICE CHAIRMAN SOCKWELL: Variances are more  
16 difficult to support than special exceptions.

17 MR. GOLDSTEIN: Okay. I will begin my presentation  
18 at this point. The following is our presentation on behalf of  
19 Linwood and Connie Tipton for the acceptance of their application  
20 for a zoning variance to increase the percentage of lot coverage  
21 to restore the original side porch and to expand the carriage  
22 house at 712 East Capitol Street, Northeast.

23 And to give you a brief background, the Tiptons  
24 purchased the house at 712 Eat Capitol Street, Northeast, in  
25 February of this year, with the intent to restore it and occupy it

1 as their principal residence.

2 The previous owners made available an original  
3 architectural drawing of the house which shows a two-story side  
4 porch on the east side of the house. It is also evident from the  
5 brick work on the east side of the house that this porch did exist  
6 at one time.

7 And the examples are that there is some brick work  
8 that is different than the original house which was under the side  
9 porch, and some flashing lines that indicated that there was a  
10 roof there at one time.

11 The Tiptons' application seeks permission to  
12 restore the side porch. There is also a carriage house at the  
13 rear of the lot that has been converted to a small apartment.

14 However, there is no certificate of occupancy for  
15 such an apartment. The Tiptons wish to return this to a garage,  
16 which they intend to park their two cars. This requires  
17 increasing the depth of the building.

18 The Tiptons' application seeks permission to add  
19 several feet on the front of the carriage house. 712 East Capitol  
20 Street is a semi-detached house. Therefore, a zoning variance is  
21 required for lot coverage greater than 40 percent.

22 The current structure at 712 covers approximately  
23 42 percent of the lot. If the application is approved for both  
24 the restoration of the side porch and expansion of the carriage  
25 house, the lot coverage will increase to approximately 50 percent.

1           It may be important to note from a visual and open  
2 space point of view, even though not relevant to the zoning/lot  
3 coverage issue, is the fact that in addition to the land area  
4 included in calculating the lot coverage, there is a deep front  
5 garden, approximately 54 by 40 feet in front of 712 East Capitol  
6 Street, Southeast.

7           In addition, the majority of the houses in the  
8 Capitol Hill area are attached row houses, which are allowed 60  
9 percent lot coverage in the R-4 district.

10          Before I discuss these relevant points, I will just  
11 quickly go over the plan, which I have here on this board. This  
12 is a semi-detached house, and this is the structure of the  
13 residence, and this is the detached carriage house, and this is  
14 the side yard, and here is East Capitol Street, and there is an  
15 alley that turns at an angle back here.

16          And this is our proposed side elevation showing the  
17 covered porch and how it extends along the side, and the section  
18 shows the carriage house extension.

19          This is the 1901 -- I don't know if everyone can  
20 see this, but this is the 1902 (sic) drawing which the owners  
21 received from the previous owner, and it shows the side porch, the  
22 covered side porch, that was removed for whatever reason, and we  
23 want to build it back exactly the way it was draw in 1902.

24          I have also brought along some detail showing how  
25 we are planning to replicate the original 1902 drawing. Now, I

1 have three relevant points to granting the application for a  
2 zoning variance.

3 The additions sought will have no adverse effect on  
4 neighbors. In fact, it will benefit the neighbors in two ways.

5 VICE CHAIRMAN SOCKWELL: All right.

6 MS. FISHER: First, the addition to the carriage  
7 house will enable the Tiptons to park their two cars off the  
8 street, alleviating the crowded parking situation on East Capitol  
9 Street.

10 Second, the addition of the side porch will enhance  
11 the historic nature of the neighborhood, which is the written  
12 intent of the historic district, Capitol Hill, and will provide a  
13 more attractive view of the east side of the house.

14 The Tiptons met with the zoning committees of both  
15 ANC-6A and ANC 6-B, and received their unanimous endorsement. In  
16 addition, several neighbors have written individual letters in  
17 support of the Tiptons' application. There is no known opposition  
18 to the Tiptons' application.

19 Secondly, the additions are in conformity with the  
20 historic area. The area's zoning seeks to keep adequate open  
21 space and to maintain and enhance the historic nature of the  
22 neighborhood.

23 The additions being sought at 712 East Capitol  
24 Street leave a large amount of open space, nearly 50 percent of  
25 the buildable lot, plus the very large front yard, and restore the

1 side porch that was originally part of the property, thus  
2 enhancing the historic area.

3 This semi-detached house is fairly unique in the  
4 Capitol Hill area where a majority of the houses are row houses  
5 which are allowed 60 percent lot coverage. The D.C. Historic  
6 Preservation Office and the Capitol Hill Restoration Society both  
7 support the Tiptons' application.

8 Third, the additions are needed to overcome  
9 practical difficulties. The addition to the carriage house is  
10 needed to make it useable as a two-car garage. The structure is  
11 currently not large enough for this purpose.

12 The restoration of the side porch, which will  
13 enhance the historic nature of the neighborhood, ironically is not  
14 possible under the zoning regulations. It is the intent of the  
15 historic district to implement restoration which is not possible  
16 unless the requested variance is granted.

17 So, it is the zoning regulations themselves that  
18 present a practical difficult to enhancing the historic district.

19 In addition, restoration of this side porch will provide traffic  
20 flow within the property as it was originally designed, and this  
21 is not possible without the granting of a zoning variance.

22 Summarizing, if granted, the Tiptons' application  
23 for a zoning variance at 712 East Capitol Street, Northeast, to  
24 allow the addition to the carriage house and to restore the side  
25 porch on the east side of the house will enable the historic

1 character of the neighborhood to be enhanced and will help  
2 alleviate density of on-street parking.

3 VICE CHAIRMAN SOCKWELL: Is there any more  
4 testimony?

5 MR. GOLDSTEIN: Do you have something to add?

6 MS. TIPTON: No, I am here and will be happy to  
7 answer any questions, as well as Mr. Goldstein.

8 VICE CHAIRMAN SOCKWELL: Board Members, do you have  
9 questions, or should I start?

10 MR. HOOD: Mr. Chairman, I do have a question, and  
11 maybe it would be answered if we could proceed with discussion.

12 VICE CHAIRMAN SOCKWELL: Let me start by saying  
13 that in reviewing the application the statement on the application  
14 for the basis for action sought was to enlarge the existing  
15 garage, which is too small for a car, and to reconstruct the porch  
16 on to the house which was once an existing structure, and these  
17 new structures will exceed the allowable lot coverage once built.

18 I was interested in the fact that it was stated  
19 that the existing carriage house structure in the application  
20 description would not support an automobile, and so I took it upon  
21 myself to evaluate a structure of similar type and dimension  
22 against the applicability of fitting a Mercedes S Class, which is  
23 one of the largest sedans you can buy, and a Cadillac Escalade,  
24 which is one of the largest sport utility vehicles that one can  
25 buy.

1           The Mercedes is approximately 203.1 inches long,  
2 and the Cadillac is approximately 201 inches long, each of which,  
3 assuming the walls to be about 8 inches thick on that garage as a  
4 masonry garage structure, within an applicable garage door, would  
5 fit with about two feet to spare.

6           So I was concerned with the premise for the  
7 application might be a bit faulty with regard to the requested  
8 relief. As well, based on the drawings that you have shown, the  
9 extension to the garage would actually not increase the available  
10 width for multiple car parking.

11           But it would extend the depth for an additional  
12 things that might occur around those vehicles. In your zone,  
13 under the current ordinance, it is only required that one off-  
14 street parking space be provided.

15           There is not a specific justification for two.  
16 Also, on the basis of extending the yard, or the garage, and  
17 looking at the existing arch that is apparently not original  
18 construction and that attaches the garage wall to the house, I am  
19 concerned that perhaps that arch which violates the side yard  
20 requirements that would normally be in place for something that  
21 was built after 1958, which that arch may well have been, that the  
22 arch actually violates the side yard requirements.

23           And while I have no particular difficulty with the  
24 porch itself, it is not a grandfathered fact that the porch can be  
25 reconstructed under the current zoning ordinance with the other

1 changes as well, because now you have defeated the side yard.

2 I haven't found a really good logical justification  
3 for extending the garage, which is apparently 20.1 feet in actual  
4 length in its existing condition, minus 16 inches for wall  
5 thicknesses.

6 MR. GOLDSTEIN: Well, we have --

7 VICE CHAIRMAN SOCKWELL: And even if it were 20.

8 MR. GOLDSTEIN: We have done many homes with two  
9 car garages, and they are never this small.

10 VICE CHAIRMAN SOCKWELL: Well, that may well be  
11 true and in a more generous neighborhood where the lots are much  
12 larger, one can accommodate 3 and 4, and even 5 car garages with  
13 no impact on lot occupancy, or impact on required side yards or  
14 rear yards.

15 But this is a different condition, and at this  
16 point it would violate the side -- you have a very generous lot  
17 here, and admittedly the house occupies only a portion of it. The  
18 garage occupies a portion of it, and allC of it predates the  
19 zoning ordinance.

20 But when we attempt to apply the current zoning  
21 ordinance to existing structures, it is sometimes not as easy to  
22 just say yes because the neighbors and the historical society  
23 would love to see certain things done.

24 It is the ordinance that we have to enforce, and we  
25 have to have justification that we feel is sufficient to make

1 those decisions based upon what is written within the ordinance,  
2 and the flexibility that we feel we have here at the board.

3 And at present I don't see the hardship -- because  
4 your lot is very large, and I don't see the hardship because the  
5 garage building would accommodate most of the largest vehicles  
6 that there might be.

7 MR. GOLDSTEIN: With two cars in there, you would  
8 have to go through one to get to the other. You couldn't get  
9 around the car.

10 VICE CHAIRMAN SOCKWELL: Well, let's say that if  
11 you are showing the width of the entrance on this drawing, which  
12 is less than --

13 MR. GOLDSTEIN: It is 16 -- you mean the door?

14 VICE CHAIRMAN SOCKWELL: Yes, the door.

15 MR. GOLDSTEIN: Which is minimum size double-car  
16 door, which is 16 feet.

17 VICE CHAIRMAN SOCKWELL: Right. But the area that  
18 you are providing for cars is less wide than the existing garage  
19 area that you are appending. I mean, the vehicle area is actually  
20 narrower.

21 MR. GOLDSTEIN: If you scale disproportionately the  
22 door, which is 16 feet, and the depth of the garage is probably  
23 17.6. So if you put a car -- and the cars that you are talking  
24 about are 200 inches long did you say?

25 VICE CHAIRMAN SOCKWELL: Well, what type of door

1 are you planning to use, and you are not going to do a -- I mean,  
2 I just did a garage recently, and so the garage door didn't take  
3 up any room outside of the vertical project as it comes down.

4 It latches into the opening and it doesn't -- there  
5 is a small projection of runners behind it, but that is outside of  
6 the area that the cars are going to be moving within. I mean, you  
7 are going to have to have that.

8 MR. GOLDSTEIN: But if this is a depth issue --

9 VICE CHAIRMAN SOCKWELL: If you have a 203 inch  
10 car, what is the inside dimension of your garage?

11 MR. GOLDSTEIN: Well, the inside dimension of the  
12 existing garage is -- I think it is 17-1/2 feet.

13 VICE CHAIRMAN SOCKWELL: So it is incorrectly  
14 dimensioned at 20 feet, at 20.1 feet? I mean, you are actually  
15 adding a wall in the front and you can probably know from your own  
16 dimensions that it appears to be eight inches, and it appears to  
17 be approximately the same thickness as the existing wall.

18 MR. GOLDSTEIN: Where do you see the 20 -- I'm  
19 sorry, but --

20 VICE CHAIRMAN SOCKWELL: It is on the site plan.  
21 It is on the plat actually.

22 MR. GOLDSTEIN: It is on the plat?

23 VICE CHAIRMAN SOCKWELL: On your survey.

24 MR. GOLDSTEIN: So you are saying it is 20.1 feet?

25 VICE CHAIRMAN SOCKWELL: Yes, 20.1 feet.

1 MR. GOLDSTEIN: Minus 16 inches.

2 VICE CHAIRMAN SOCKWELL: Minus 16 inches. It is  
3 240 inches, minus 16.

4 MR. GOLDSTEIN: Right. So that leaves you, I  
5 guess, a foot-and-a-half, to get around the car.

6 VICE CHAIRMAN SOCKWELL: Well, to get to the front  
7 and rear of the car, yes. Maybe two feet. It depends on whether  
8 it is absolutely accurate or not, and that is if you are using --  
9 if she has an S Class Mercedes at 203 inches. If she has a  
10 Honda, she has got plenty of feet.

11 But I was going by the application. The  
12 application seemed to state that you can't do something, and if  
13 we have to review this, we have to decide whether or not that is  
14 realistic, because that was the justification. You can't get a  
15 car in there.

16 MR. GOLDSTEIN: Well, do we want to speak on the  
17 issues of whether or not --

18 VICE CHAIRMAN SOCKWELL: And the dimension that you  
19 provide on the drawings is a VIF drawing, a VIF dimension, which  
20 means verify in field, which means that this could be whatever. I  
21 mean, you don't need that much additional depth in the garage to  
22 get the car in even if you thought you needed two feet, or three  
23 feet, around it.

24 You are asking for what appears to be 10 to 12 feet  
25 of additional garage, and that is not -- it doesn't add up to what

1 you need. It adds up to what you want.

2 And the justification is based on the application,  
3 and the application did not ask for additional length to  
4 accommodate a larger car. It asked for additional length to  
5 accommodate a car, period.

6 And I believe that I have proven that we can  
7 accommodate a car, or two cars, in the depth that we have now.  
8 But you are asking for far more depth than that required to do the  
9 job, and there is no justification for that much depth.

10 MS. TIPTON: Mr. Chairman, if I might comment. We  
11 would or we did want to park both of our cars in the garage, and  
12 we were of the understanding that the current depth would not  
13 accommodate our parking both cars and being able to walk around  
14 them to actually get out of the garage.

15 And so we sought to add some depth to the garage.  
16 I agree with you that the 10 feet that we are seeking to add is  
17 more than is needed to park the cars in there, and --

18 VICE CHAIRMAN SOCKWELL: Well, I don't even know  
19 that it is 10 feet.

20 MS. TIPTON: -- we felt that since we were adding  
21 to the depth of the garage that we wanted to add a little bit more  
22 so we would have some storage area in the back of the garage. So  
23 that is a more complete answer perhaps.

24 VICE CHAIRMAN SOCKWELL: Well, there is room for  
25 storage on the side of the vehicles. There is room for storage

1 there, and you are trying to gain a tremendous amount of square  
2 footage that is really unnecessary for the purpose to which it  
3 would be assigned.

4 You only need three feet for a handicapped wheel  
5 chair access aisle. So if a wheelchair can get around the front  
6 of your car with three feet, then a human being doesn't need more  
7 than three feet walking, loaded with groceries in both arms.

8 MS. TIPTON: No, I understand that the facts as you  
9 are presenting them may well be correct, but that while we were  
10 seeking to move that wall in order to be able to walk around the  
11 cars, we felt that it would be beneficial to add a few extra feet  
12 for additional space in the garage.

13 And as well by completing the closure of the rear  
14 of the house and separating it from the side of the house, I  
15 believe that there are building code fire and safety implications  
16 here that are outside of the purview of this board. But that --

17 MR. GOLDSTEIN: That would not be a roof. That  
18 space --

19 VICE CHAIRMAN SOCKWELL: Well, it has three doors  
20 on it, and it has a door and a door.

21 MR. GOLDSTEIN: But it wouldn't --

22 VICE CHAIRMAN SOCKWELL: And I assume that they may  
23 be locked, and it doesn't provide free access out to the rear of  
24 the house in case of a fire. Those are issues that could come up.

25 MR. HOOD: Mr. Chairman, which one are you looking

1 at?

2 VICE CHAIRMAN SOCKWELL: I am looking at their  
3 drawing A-2, first floor plan.

4 MR. HOOD: Oh, okay.

5 VICE CHAIRMAN SOCKWELL: Which shows a vestibule  
6 type situation, probably a rebuilding of the arched wall so that  
7 it would fit a more rational door.

8 MR. GOLDSTEIN: No, we had planned to retain the  
9 arched wall there. You can see that it is shaded and the other  
10 walls that are newer are hatched.

11 VICE CHAIRMAN SOCKWELL: And I am not even sure  
12 that arched wall is legal, because I don't know that there was a  
13 permit issued for it. It violates side yard requirements, and  
14 structures in required side yards are generally not allowed like  
15 this.

16 MR. GOLDSTEIN: Well, it clearly has been there for  
17 a long time.

18 VICE CHAIRMAN SOCKWELL: Yes, I understand, but it  
19 doesn't make it right though.

20 MR. GOLDSTEIN: Right.

21 VICE CHAIRMAN SOCKWELL: But I don't think that I  
22 see justification for the extensive enlargement of the garage.

23 MR. GOLDSTEIN: These gates, the one that is  
24 existing, and the new one labeled door 17, would both be just open  
25 gates, and there would be no roof over this space. So there is no

1 combustible material that is going to touch from one structure to  
2 the other. It is all masonry.

3 VICE CHAIRMAN SOCKWELL: But by carrying the wall,  
4 you have connected the two buildings into one in one respect.

5 MR. GOLDSTEIN: They are already connected.

6 VICE CHAIRMAN SOCKWELL: And I am not saying that  
7 they aren't already, but certainly it is making a difference  
8 there. But regardless, I don't have a justification for extending  
9 the garage.

10 There is no property hardship that actually says  
11 that this has to be done because of the shape and condition of the  
12 lot, or exceptional conditions that are constrictive in nature, or  
13 restrictive in nature. But let me --

14 MR. MOULDEN: Mr. Chairman, are you recommending  
15 that there be some adjustment to make the garage smaller, or are  
16 you recommending that there is no clear indication that there is a  
17 hardship to do this, or --

18 VICE CHAIRMAN SOCKWELL: I believe that we are  
19 probably stepping -- we would be stepping beyond our bounds to  
20 further reduce the side yard, which has something in it that I do  
21 not believe is supposed to be there in the first place, and that  
22 is that wall.

23 It was not built by the present owner, and that is  
24 this wall here, the wall in their drawing that is right there, and  
25 that separates the garage from the house.

1           It is an arch at this point that is existing, and  
2 to bring the additional walls out creates and boxes in with a  
3 structure that side yard completely, and I don't believe that we  
4 have the authority to remove a side yard, or exacerbate a  
5 condition which may be an existing non-conforming condition which  
6 could, but probably doesn't, preexist the ordinance.

7           We cannot extend or increase that non-conforming  
8 condition. I believe that a side yard is supposed to be  
9 continuous and an existing side yard that they have of course is  
10 tremendous.

11           If we limit them to what would be the equivalent of  
12 an 8 foot distance from the edge of the existing house wall to the  
13 face of the garage extension, that would at least be in keeping  
14 with the minimum side yard requirement at that point.

15           MR. MOULDEN: I have a question for the applicant.  
16           According to a copy of the photograph in the file, you currently  
17 park in front of the house?

18           MS. TIPTON: We are currently parking our cars on  
19 East Capitol Street, that's correct.

20           MR. MOULDEN: What is this drawing here showing a  
21 picture of a house?

22           MS. TIPTON: I'm sorry, that looks to be the  
23 carriage house from the alley.

24           MR. MOULDEN: Okay.

25           MS. TIPTON: That is a picture taken -- I don't

1 know when, because right now there is a dumpster in that space,  
2 and there is an area there that you could park a car were the  
3 dumpster not there, because we are in the process of renovating  
4 the interior of the property currently.

5 And which is why we are parking our cars on the  
6 street. We have not done any kind of tearing out of the carriage  
7 house pending this application. I think we stated in our  
8 presentation that had been by the previous owners converted to a  
9 small apartment, which has no certificate of occupancy.

10 We don't desire to try and use it as an apartment,  
11 or an office, but we want to try and park our cars in it, and that  
12 is why we were seeking the ability to add some depth to the garage  
13 so that it was easier to walk around.

14 And as I said, I understand the chairman's point  
15 that we don't need a 10 foot extension, but we felt as long as we  
16 were going to the expense of extending that wall, that since there  
17 is plenty of parking or there is plenty of area on our property at  
18 the back there, that we were desirous of adding a few extra feet  
19 so that we would have additional storage space in that garage.

20 I guess we would be willing to accept a  
21 consideration of adding a lesser number of feet, but I guess also  
22 in addition I would just -- I know that the rules for a semi-  
23 detached house such as this with a large side yard, are that we  
24 can only cover 40 percent of the lot.

25 With both of these additions, we would be at around

1 50 percent, and it is clear that most of our neighbors are  
2 covering far more than their lots. Plus, we have a very large  
3 front lot.

4 I mean, we are really wanting to contribute to the  
5 area, and to take both of our cars off of the street and  
6 accommodate that. And we would like to do it in a proper manner  
7 obviously. But we would seek your help in figuring out how to do  
8 that.

9 MR. MOULDEN: I have another question. I guess  
10 within a few blocks in each direction is there any similar type of  
11 garage on other properties in the area that you noticed?

12 MS. TIPTON: In the alley where we would enter our  
13 garage has other garages behind homes on 8th Street and on 7th  
14 Street.

15 MR. MOULDEN: Is it similar in size to what you  
16 propose?

17 MS. TIPTON: There are a variety of sizes of the  
18 garages on that block, and some of them would be larger, and some  
19 of them would be smaller.

20 MR. MOULDEN: And they are used for automobile  
21 parking?

22 MS. TIPTON: For parking, yes, correct. And some  
23 of them just have a parking area with no garage. So there is a  
24 real variety on that alley way.

25 MR. MOULDEN: And this is on your block?

1 MS. TIPTON: There are a couple of houses on our  
2 block that have parking. I think there are only one or two  
3 adjacent to us on the west side that have parking. The other  
4 parking on the alley would be behind some of the homes on the two  
5 side streets, 7th Street and 8th Street.

6 MR. MOULDEN: The reason why I said that is because  
7 in some cases where you can't exactly show an extreme hardship, if  
8 you can show that there are similar homes in the adjacent area or  
9 adjacent block, and they have been justifiably approved for their  
10 size and the use of automobiles, that that could help the case.

11 MS. TIPTON: I see.

12 MEMBER RENSHAW: Mr. Chairman, I have a question  
13 for the architect. Mr. Fisher (sic), you showed the drawing, the  
14 original architectural drawing, in 1902. And I just want you to  
15 focus on the side porch which has been removed, and which you  
16 would like to have replaced.

17 In drawing number A-2 does the original porch --  
18 did the original porch go back only for the four pillars, or the  
19 three pillars? How far did the original porch go back or do you  
20 know?

21 MR. GOLDSTEIN: We can't really tell, although  
22 there is a brick change. There is a change in the brick work on  
23 the side, but it is very hard to tell how far it went back.

24 MS. TIPTON: We don't have any other drawings of  
25 the side or anything. The only original drawing that we have is

1 of the front elevation.

2 MEMBER RENSHAW: So where you are saying you are  
3 replacing a porch, you are just really putting on an additional  
4 deck, mimicking the look of the original porch; is that correct?

5 MR. GOLDSTEIN: That's correct.

6 MEMBER RENSHAW: And you are extending it for the  
7 length of the house, and am I right that this back end of the  
8 house is all new? Is the back end of the house new?

9 MR. GOLDSTEIN: No, it is not. It is all original.  
10 You are referring to this end of the house?

11 MEMBER RENSHAW: That's it.

12 MR. GOLDSTEIN: That's all original.

13 VICE CHAIRMAN SOCKWELL: One of the things that  
14 troubled me about the application and that seems to be there --  
15 and I am not saying that this was done to misconstrue the  
16 conditions, but you say reconstruct a porch.

17 Reconstruct does generally mean replace in kind.  
18 It doesn't generally mean replace, emulate, simulate, extend. It  
19 doesn't mean recreate in general shape and form. Reconstruct  
20 means rebuild in place as was.

21  
22 And what you are doing is reconstructing perhaps to  
23 the extent as an architect you can look at the change in materials  
24 at the base of the house, and determine pretty much where that  
25 porch used to be, and then add on to the rear to gain access to

1 other to be renovated portions of the home.

2 And it does trouble me that the use of words which  
3 an architect has great command of, seems to be misleading, and was  
4 misleading to me. And that is one of the reasons why I really  
5 tried to look at this very, very carefully to see what you were  
6 doing, because we don't have the license to be just poetic and  
7 grant variances and relief on the basis of what is a good design.

8 We have to have justification under the ordinance  
9 to be fair. Your house, because it is the end of its row, is a  
10 semi-detached house by definition. It is --

11 MR. GOLDSTEIN: Mid-block.

12 VICE CHAIRMAN SOCKWELL: Well, it is at the end of  
13 its row. It is a semi-detached house, and there are semi-detached  
14 houses mid-block everywhere. Generally, we think of semi-detached  
15 houses as paired houses, with a shared wall and two outside walls  
16 on the opposite sides.

17 But unfortunately the way that houses are built the  
18 end row houses almost invariably are considered to be semi-  
19 detached under the strict reading of the code. And in this case -

20 -

21 MR. GOLDSTEIN: You understand mid-block?

22 VICE CHAIRMAN SOCKWELL: I do understand that it is  
23 mid-block, and it is for all intents and purposes the way the code  
24 is written semi-detached. It wasn't the result of a house being  
25 torn down and this being the remaining house.

1           This house was built with those bays on that side,  
2           and therefore had to have yard distanced from those bays. So the  
3           house itself is exactly what it is supposed to be, and didn't  
4           become that way through some fault or some change elsewhere. It  
5           has been that way ever since it was built, minus the porch.

6           I believe that we can -- I would feel comfortable  
7           recommending a minimal extension of the garage, which is going to  
8           accommodate length of vehicles somewhat greater than what is there  
9           now, and would more adequately accommodate two cars and the walk  
10          around from those two cars, so that one could walk over to the  
11          other side of the garage.

12          But the point is that I can't see granting you an  
13          abnormally large extension that is not justified, and we have to  
14          maintain an eight foot side yard at that point at the rear of the  
15          house.

16          So I am going to recommend that your garage  
17          extension be limited to the extent that an eight foot distance be  
18          maintained from the existing -- what is that, a west wall?

19                 MR. GOLDSTEIN: Yes.

20                 VICE CHAIRMAN SOCKWELL: A west wall --

21                 MR. GOLDSTEIN: I'm sorry, but that's the east  
22          wall.

23                 VICE CHAIRMAN SOCKWELL: The east wall, to the face  
24          of said extension.

25                 MR. GOLDSTEIN: That would leave us two feet

1 basically.

2 VICE CHAIRMAN SOCKWELL: It will be two feet more  
3 than you had.

4 MR. GOLDSTEIN: Right, because I think --

5 VICE CHAIRMAN SOCKWELL: Because you a have a  
6 greater side yard than can be accommodated without -- I mean, if  
7 you had five feet, if you had an existing five foot side yard I  
8 could work with, then maybe we could take it to five.

9 But eight is in the code, and you have got 20 feet  
10 of side yard in real terms, and you are going to want to extend a  
11 reconstructed porch into that area. That porch as well has a  
12 second floor to it, which means that it is a double-porch, as  
13 opposed to a single porch with a roof. It has a walkout on the  
14 second floor.

15 MR. GOLDSTEIN: But it is just a roof with a  
16 railing around it.

17 VICE CHAIRMAN SOCKWELL: Okay. So it is not a  
18 walkout?

19 MR. GOLDSTEIN: No. I mean, you can go through the  
20 window and get on it, but there is no deck up there. There is no  
21 useable space up there.

22 VICE CHAIRMAN SOCKWELL: All right. So you are  
23 saying that this is a roofed porch?

24 MR. GOLDSTEIN: It is a covered porch.

25 VICE CHAIRMAN SOCKWELL: A covered porch.

1 MS. TIPTON: Yes.

2 VICE CHAIRMAN SOCKWELL: And there is no intention,  
3 at least at this moment, to extend one of the windows down or to -  
4 -

5 MR. GOLDSTEIN: No.

6 VICE CHAIRMAN SOCKWELL: -- pop them out and put  
7 doors?

8 MR. GOLDSTEIN: No.

9 MS. TIPTON: No, sir. In fact, we have already  
10 restored and put new window sash in the windows there, and we  
11 sealed up the bottom part that was originally -- that would swing  
12 open to what was the original porch.

13 And the reason that we are going up with it and not  
14 putting a deck on the top is primarily a financial reason. It was  
15 a lot more expensive to have a deck up there as well, and so we  
16 have chosen to try and replicate the appearance of it without  
17 having the expense of adding a deck on the upper level.

18 MR. GOLDSTEIN: In fact, the historic department,  
19 Steve Colcott, had told us that he would only support our design  
20 if we did put the porch -- the roof over the covered porch as per  
21 the drawing, the 1902 drawing.

22 VICE CHAIRMAN SOCKWELL: What is the height of the  
23 porch above grade to the deck of the walking surface  
24 approximately?

25 MR. GOLDSTEIN: I think it is 4 feet, or 3-1/2

1 feet.

2 VICE CHAIRMAN SOCKWELL: Okay. And under the  
3 circumstances of an uncovered deck, you would be allowed to build  
4 that into a side yard, and it wouldn't count towards lot occupancy  
5 as long as it is not more than four feet above grade.

6 Under the circumstance of it being a historically  
7 significant house, and the fact that you had a very successful  
8 historic review, and the strong support of neighbors, I would be  
9 willing to allow or recommend that the porch be allowed as  
10 designed because if it did not have to have the overhead component  
11 matching the original design, it could be built without a roof as  
12 a deck, and without encumbering your lot occupancy.

13 MR. GOLDSTEIN: I'm sorry, but if you could just  
14 refer to the third drawing. In fact, it says 4-1/2 feet from  
15 grade to the deck.

16 VICE CHAIRMAN SOCKWELL: Oh, thank you.

17 MR. GOLDSTEIN: So I don't want to mislead you.

18 VICE CHAIRMAN SOCKWELL: Well, I do appreciate  
19 that. I will modify what I said and say that it is within reason  
20 close to a deck height, and could have been lowered somewhat, but  
21 you are trying to maintain the relationship between the existing  
22 house and the original porch as much as possible.

23 MS. TIPTON: Yes.

24 MR. GOLDSTEIN: Yes.

25 VICE CHAIRMAN SOCKWELL: And I would still stand by

1 my basic premise, which is that you could have worked out a deck  
2 without having to violate the lot coverage.

3 And I would be willing to recommend that we approve  
4 it on the basis that it is meeting historic preservation  
5 guidelines and could otherwise be produced with some modifications  
6 to meet code and not encumber your lot occupancy. But I cannot  
7 accept the garage the way it was.

8 MEMBER RENSHAW: Mr. Chairman, just back to the  
9 porch again.

10 VICE CHAIRMAN SOCKWELL: Yes.

11 MEMBER RENSHAW: Which is to be reconstructed to  
12 the original design. Did the original design -- we have kind of  
13 established that the original design probably was not as long as  
14 this deck is going to be.

15 VICE CHAIRMAN SOCKWELL: Right.

16 MEMBER RENSHAW: Was the original design covered?  
17 Do you intend to cover the extent or only have --

18 MR. GOLDSTEIN: No, we are only intending to cover  
19 the indentation, the portion that is inside the bay area and  
20 between the two bays.

21 MEMBER RENSHAW: So where you said you are going to  
22 seek to reconstruct the porch to the original design as the  
23 Capitol Hill Restoration Society states in its letter of September  
24 18th, you are actually reconstructing the porch, but then you are  
25 adding on to the original design. I just wish your application

1 was more specific.

2 MR. GOLDSTEIN: Well, we are really not sure  
3 whether the original porch didn't follow these exact -- this exact  
4 shape. We clearly can see what it looks like from the front, but  
5 we have no drawings that show what it looked like from the side.

6 VICE CHAIRMAN SOCKWELL: Are the windows above  
7 original configuration?

8 MR. GOLDSTEIN: Yes.

9 VICE CHAIRMAN SOCKWELL: All right. Are you going  
10 to put in the lattice at the base as per the original drawing?

11 MR. GOLDSTEIN: At the front, we had planned to put  
12 the wrought iron that is shown there, and on the side --

13 VICE CHAIRMAN SOCKWELL: On the side porch, we have  
14 a lattice.

15 MR. GOLDSTEIN: Yes. But that is the front  
16 opening, and on the sides we have not decided whether we are going  
17 to fill those in as of yet.

18 VICE CHAIRMAN SOCKWELL: Well, it would have likely  
19 had lattice on all faces in its original configuration, but you  
20 want to leave your windows available?

21 MR. GOLDSTEIN: Well, that is what is driving this,  
22 is that we want to not block any more light than already gets  
23 blocked by the structure.

24 VICE CHAIRMAN SOCKWELL: So to the extent that we  
25 have details of your porch construction, you are not actually

1 recreating the design as it existed at its base. You are  
2 emulating the design to the best of your ability?

3 MR. GOLDSTEIN: Yes, I agree with that.

4 VICE CHAIRMAN SOCKWELL: Because from what I can  
5 see, once you get below the actual balstred, you are going to have  
6 some modifications. It is not going to be the same load bearing  
7 masonry structure that may have existed before. It is going to be  
8 something different.

9 And that's so that you can access to the light to  
10 the windows to the side, et cetera, et cetera.

11 MR. GOLDSTEIN: Yes. I would -- that's an  
12 appropriate assumption.

13 VICE CHAIRMAN SOCKWELL: And the historical society  
14 is aware of those differences in detail?

15 MR. GOLDSTEIN: Yes, they are. They have reviewed  
16 these exact drawings and the 1902 drawing, and that's where Steve  
17 Colcott generated his letter based on these documents.

18 VICE CHAIRMAN SOCKWELL: All right. And he did not  
19 require you to reproduce the base?

20 MR. GOLDSTEIN: No, he did not.

21 VICE CHAIRMAN SOCKWELL: All right. On that basis,  
22 I don't really have any more questions for you.

23 I think that the issue is primarily whether the  
24 board feels that they can accept my recommendation on the garage  
25 and whether Ms. Renshaw is comfortable with the extension of the

1 side porch beyond what may have been -- and more than likely was -  
2 - a limitation within the space separating the two bays, which is  
3 more likely what the porch looked like.

4 And certainly having researched the building type, you are  
5 probably able to speak to that.

6 MS. TIPTON: If I could just make a comment. At  
7 the rear of the house, you can see that there are glass doors and  
8 glass panels on the side there, and there is and was when we  
9 purchased the house an existing deck if you will on that back part  
10 of the house. That is how you get out of those doors at the back  
11 of the house.

12 VICE CHAIRMAN SOCKWELL: But it wasn't an original  
13 deck. It was --

14 MS. TIPTON: No, it's not. You can tell it is not  
15 an original deck, but that --

16 VICE CHAIRMAN SOCKWELL: Probably the same as for  
17 that arch.

18 MS. TIPTON: And those doors, I'm sure, weren't  
19 original either, but that is how one gets out of the back of the  
20 house at this point, and it is the way that the house existed when  
21 we bought it. But those are the rear doors to the house if you  
22 will.

23 VICE CHAIRMAN SOCKWELL: And those were torn off?

24 MS. TIPTON: No, it's there.

25 VICE CHAIRMAN SOCKWELL: It's there now?

1 MS. TIPTON: That is the only way out of the back  
2 of the house. So to not have a porch at the back would not  
3 provide us any way to get out of the back of the house. So we  
4 felt from a design standpoint that it made more sense to  
5 incorporate that and rebuild that to tie it in with the porch  
6 restoration, and to replicate that from the front.

7 MEMBER RENSHAW: I understand. I understand the  
8 need to extend the porch to connect those two entities, but it was  
9 just to inquire whether or not the original design in your  
10 research of the original design, it looked like that, or was it  
11 just the covered portion, and then there was a gap.

12 And then as Mrs. Tipton said, a deck was added at  
13 the back later on, and I gathered that that was the case.

14 MR. GOLDSTEIN: I think that was the case.

15 VICE CHAIRMAN SOCKWELL: Well, I will admit that  
16 that sad looking porch doesn't do anything for what you are  
17 planning to build, and I see no reason not to be able to continue  
18 the design in moderation unroofed to pick up that area, and as  
19 long as you are maintaining the design continuity, I would be  
20 willing to accept that.

21 MEMBER RENSHAW: But Mr. Chairman, back to the  
22 garage. You are recommending only two feet?

23 VICE CHAIRMAN SOCKWELL: I am recommending that an  
24 eight foot distance be maintained between the east wall of the  
25 house and the front wall of the extended garage.

1 MR. GOLDSTEIN: Which would leave us only two feet.

2 VICE CHAIRMAN SOCKWELL: Which would give you two  
3 more feet than you have now.

4 MR. MOULDEN: Mr. Chairman, could you show us by  
5 using that pointer, but also are we going to hear from the --  
6 before we make our recommendations, are we going to hear from the  
7 ANC?

8 VICE CHAIRMAN SOCKWELL: I don't know that there is  
9 anyone else here to testify on this case.

10 MEMBER RENSHAW: We can read into the record the  
11 ANC comments.

12 VICE CHAIRMAN SOCKWELL: What I am saying is that  
13 this front wall would be pushed back to create eight feet from  
14 this wall to wherever the front wall begins.

15 MR. GOLDSTEIN: Which is going to be here.

16 VICE CHAIRMAN SOCKWELL: Right.

17 MR. GOLDSTEIN: And this is eight feet.

18 VICE CHAIRMAN SOCKWELL: Yes. And if you carry it  
19 straight across and if -- I'm sorry, your name is again?

20 MS. TIPTON: Mrs. Tipton. If Mrs. Tipton doesn't  
21 buy something longer than a S500 Mercedes, she should be able to  
22 utilize that garage effectively. But it is a side yard related  
23 issue, and you have a side yard that is quite generous and I don't  
24 wish to modify by allowing you to delete the side yard.

25 You are still going to have a side yard around that

1 porch, and that garage should not prevent the movement through the  
2 side yard to the rear of the house. The side yard is what I am  
3 dealing with. And what interior dimension, length-wise, will you  
4 have if you put that wall there?

5 MR. GOLDSTEIN: Well, I was just looking at my  
6 field dimensions, and --

7 VICE CHAIRMAN SOCKWELL: And your architectural  
8 drawings should be to scale. Do you need a scale?

9 MR. GOLDSTEIN: Excuse me?

10 VICE CHAIRMAN SOCKWELL: Your architectural  
11 drawings should be to scale. Do you need a scale?

12 MR. GOLDSTEIN: No, they are to scale.

13 VICE CHAIRMAN SOCKWELL: Do you need a scale to  
14 measure the inside of the garage?

15 MR. GOLDSTEIN: Well, if you have one.

16 MEMBER RENSHAW: Mr. Goldstein, would you point out  
17 again on the map where the two foot line is?

18 MR. GOLDSTEIN: Well, roughly speaking, if this is  
19 10 feet, minus 8, leaves 2 for the wall to come across here.

20 MEMBER RENSHAW: This is a picture of the garage  
21 elevation with the arched way. Is this the side area that you  
22 were talking about here?

23 MR. GOLDSTEIN: This is the arch.

24 MEMBER RENSHAW: There is the arch.

25 MR. GOLDSTEIN: Yes, there is the arch, and so that

1 is the wall that was built.

2 MEMBER RENSHAW: So the garage is here.

3 MR. GOLDSTEIN: It is drawn to scale quarter-scale.

4 VICE CHAIRMAN SOCKWELL: Quarter-scale.

5 MEMBER RENSHAW: Mr. Goldstein, the garage is down  
6 here?

7 MR. GOLDSTEIN: Yes, this is the side of the  
8 garage, and here is the side yard, and here is the archway, and  
9 this is the front.

10 MEMBER RENSHAW: All right.

11 (Brief Pause.)

12 MR. GOLDSTEIN: Well, the interior dimension is  
13 scaling at 18-1/2, and then as you had said, the door will  
14 encroach -- the track of the door will encroach, let's say, six  
15 inches.

16 VICE CHAIRMAN SOCKWELL: Right. Well, it may not  
17 encroach the full six inches.

18 MR. GOLDSTEIN: So let's say it is 18 foot clear,  
19 and so we would have 20 foot clear, I guess.

20 VICE CHAIRMAN SOCKWELL: If the board would be  
21 willing and we grant you a seven foot side yard, that will give  
22 you another foot, and that is assuming that you have the  
23 clearance, that you will have clearance, and you are going to run  
24 that wall all the way across, and you will be able to get in front  
25 of your cars.

1 I have many friends who have garages that don't  
2 have that much clearance for their cars, and they have things  
3 stored on both sides of them, and all of that. You really are  
4 only required to have a one car garage.

5 The fact that you want to pack two cars in has  
6 nothing to do with the ordinance. It has everything to do with  
7 your convenience.

8 MS. TIPTON: And that of the neighborhood, I  
9 believe, because it is a very crowded area for parking.

10 VICE CHAIRMAN SOCKWELL: Right. But the point is -  
11 -

12 MS. TIPTON: And our neighbors are very supportive  
13 of that.

14 VICE CHAIRMAN SOCKWELL: I am sure they are, and  
15 the first time you have that nice big party on the porch, then  
16 your neighbors won't have any parking spaces anyway.

17 But if the board wishes to allow you a seven foot  
18 side yard for access to a garage, the width is not going to  
19 change, and you could get two cars in that as long as you did not  
20 put the S-500 Mercedes in there, and you would be just fine.

21 And you can put your Volvo in there and anything  
22 else you would like. But I would be willing to recommend a seven  
23 foot side yard, and that is the best that I feel that I am willing  
24 to recommend should the board choose to go along with me.

25 MR. HOOD: Mr. Chairman, I just wanted to ask Ms.

1 Tipton a question. I have the dialogue, and you have heard our  
2 response to the chairman. That recommendation, is that suitable  
3 and acceptable, even though I know you have -- from what I have  
4 seen, you have all the credentials and you have all the support.  
5 But is his recommendation acceptable, and can you live with it?

6 MS. TIPTON: Well, obviously we would prefer to  
7 have a little more space, or we would not have sought more space,  
8 and I guess I would be happier if we could split the difference  
9 and have 5 feet of the 10 feet.

10 But if the best that we can do is an additional 3  
11 feet, then we will have to decide whether it is worth the expense  
12 to do that and park our cars there. Obviously, we would like to  
13 make it so that we can use it and it will be convenient for us and  
14 for the neighbors.

15 And if the best that we can do is 3 feet, then we  
16 will have to decide what we are going to do around that. I  
17 obviously would prefer to have a little more space.

18 MR. HOOD: So it may be an option that you may not  
19 do it at all if you go with the Chairman's recommendation?

20 MS. TIPTON: You know, it is not an inexpensive  
21 thing to do, and so certainly my husband and I will have to  
22 discuss whether we will go to the expense, and it is a  
23 considerable expense to build a new brick structure and so forth,  
24 and we will have to make that decision on whether we are going to  
25 do that.

1 MR. HOOD: So if you don't do it, meanwhile, we  
2 still have those two cars back on that crowded -- in that crowded  
3 neighborhood?

4 MS. TIPTON: That's correct.

5 MR. HOOD: Okay. Thank you.

6 VICE CHAIRMAN SOCKWELL: Actually, most of what you  
7 are going to be building is a door. You are not going to be  
8 building a lot of new brick structure at all. You are going to be  
9 building mostly door. You are taking the wall out, and you are  
10 going to be putting in a lintel.

11 MS. TIPTON: The wall and the roof, and everything,  
12 need to come out.

13 VICE CHAIRMAN SOCKWELL: The lintel may already be  
14 there from what I could see, and if the lintel is there, then you  
15 will have to build out and add some roof to that for a 3 foot  
16 extension. And that cost in flooring would be associated with the  
17 most expensive part of the construction really.

18 The likelihood is that with the extension that you  
19 are planning the lintel that is in place would probably have  
20 remained?

21 MS. TIPTON: I don't know.

22 MR. GOLDSTEIN: Well, I think the difference in  
23 costs --

24 VICE CHAIRMAN SOCKWELL: Well, I am not going to  
25 get into that, because I have gone where I am going.

1 MR. GOLDSTEIN: Okay.

2 VICE CHAIRMAN SOCKWELL: It is not really relevant  
3 to my discussion because the side yard issue is the issue that we  
4 are dealing with, and not the cost of construction.

5 MR. GOLDSTEIN: And I just wanted to go back and  
6 revisit the wall, the arched wall. That wall clearly could be 50  
7 years old.

8 VICE CHAIRMAN SOCKWELL: It perhaps could. By the  
9 photographs that I have, I have no idea how old it is.

10 MR. GOLDSTEIN: But you haven't gone to see it.

11 VICE CHAIRMAN SOCKWELL: No.

12 MR. GOLDSTEIN: Actually see it.

13 VICE CHAIRMAN SOCKWELL: No.

14 MR. GOLDSTEIN: And if that was the case, then  
15 these two structures are attached, and at one point we considered  
16 the possibility of it being a row house because of that fact. But  
17 we felt that we wouldn't get very far with that.

18 VICE CHAIRMAN SOCKWELL: Well, no, because the wall  
19 was added after the garage was constructed, and you and I both  
20 know that.

21 MR. GOLDSTEIN: Yes, but --

22 VICE CHAIRMAN SOCKWELL: And it doesn't matter what  
23 the -- and we probably both know that it was constructed without a  
24 building permit, and that there is absolutely no record of it ever  
25 having been constructed.

1 We pretty much probably know that, too, and for all  
2 we do know that wood deck that is attached to the side of the  
3 house that now becomes the way to the back yard wasn't built with  
4 a permit either. But we don't know that for a fact.

5 I am not trying to say that it was or wasn't, but  
6 we do know that the garage and the house were not attached  
7 initially, and that the attachments that are there were not done  
8 in the style that an architect, a professional of your caliber,  
9 would have even considered.

10 MR. GOLDSTEIN: Okay. I accept that.

11 VICE CHAIRMAN SOCKWELL: I thought you might accept  
12 that.

13 MR. GOLDSTEIN: But the 8 foot or 7 foot, or 5  
14 foot, whatever we decide, isn't that a light, air, and ventilation  
15 issue as it pertains to two structures?

16 VICE CHAIRMAN SOCKWELL: Actually, what it really  
17 is, is a fire safety issue for egress.

18 MR. GOLDSTEIN: Well, egress --

19 VICE CHAIRMAN SOCKWELL: And what you created was a  
20 vestibule, a fire vestibule, or a vestibule in that area which is  
21 not what the purpose of a side yard is.

22 A side yard is supposed to be continuous from one  
23 end of the property to the other under the code.

24 MR. GOLDSTEIN: But if there is a gate in the side  
25 yard, which is what this would become, we would have hardware that

1 we could egress from that would give us safety from ingress.

2 VICE CHAIRMAN SOCKWELL: Yes, but I'm not the --

3 MR. GOLDSTEIN: So it wouldn't be a fire exit  
4 problem.

5 VICE CHAIRMAN SOCKWELL: Well, I am not dealing  
6 with it from a building code standpoint. I am dealing with it  
7 from a zoning ordinance standpoint, and I am just telling you what  
8 the building code implication is.

9 MR. GOLDSTEIN: Okay.

10 VICE CHAIRMAN SOCKWELL: So I have -- my  
11 recommendation is that we allow you a 7 foot side yard for the  
12 purpose of extending your garage, and that we allow you the  
13 designed side porch as proposed, as variances to the lot coverage.

14 That gets you down below 50 percent lot coverage,  
15 and with a lot that size, when you get 50 percent -- your  
16 neighbors, yes, they have 60 percent lot coverage, but they don't  
17 have your sized lot. So 50 percent lot coverage for you would be  
18 90 percent lot coverage for them, and they can't go there.

19 You have a very large lot, and people with large  
20 lots look at the percentage of coverage and say, oh, that's not so  
21 much. And, yes, the people next store who have row houses can go  
22 60 percent.

23 But they are not going 60 percent on your square  
24 footage either. So no matter what they do, they cannot get to  
25 that. So you have no hardship.

1           If this board grants you what you are asking for,  
2 you should think that the board has been very generous with you  
3 based on what you have as a lot and amenities. That is my  
4 personal feeling.

5           I move that we accept -- that we grant the variance  
6 for the side porch as shown on the drawings, and that we accept a  
7 7 foot side yard, and that the order will not be written until  
8 drawings are produced to show the modification to that garage  
9 design that has been accepted.

10           MR. MOULDEN: I second.

11           VICE CHAIRMAN SOCKWELL: Any discussion?

12           (No audible response.)

13           VICE CHAIRMAN SOCKWELL: All in favor?

14           (Ayes.)

15           VICE CHAIRMAN SOCKWELL: Opposed?

16           MR. HOOD: Opposed.

17           VICE CHAIRMAN SOCKWELL: Abstentions?

18           (No audible response.)

19           MS. BAILEY: The staff will record the vote as 3 to  
20 1; a motion made by mr. Sockwell, and seconded by Mr. Moulden, and  
21 supported by Mrs. Renshaw, and opposed by Mr. Hood. That is, the  
22 applicant is to provide revised drawings showing a 7 seven foot  
23 side yard, and the porch would be constructed as proposed.

24           Mr. Chairman, are you ready for the next case?

25           VICE CHAIRMAN SOCKWELL: Yes.

1 MS. BAILEY: That is application number 16596, of  
2 the Mount Vernon Development Group, L.P., and 500 H Street, L.P.,  
3 pursuant to 11 DCMR 2103.2, for variances under Section 773 from  
4 the required recreation space, and under Subsection 1705.3 from  
5 the retail/arts floor area ratio requirements to construct a high-  
6 rise 200 unit apartment building in a DD/C-2-C District at  
7 premises 770 5th Street, Northwest, and that is Square 486, Lots  
8 35, 818, 819, 821, 822 through 823, and 827, and the east-west  
9 alley closed pursuant to D.C. Law 13-18.

10 Most of the persons who are here for this case were  
11 sworn in. Is there anyone who was not sworn in and who wishes to  
12 testify and needs to be sworn in at this time?

13 (The Witnesses were sworn.)

14 VICE CHAIRMAN SOCKWELL: We will wait for a moment.

15 One of the board members has stepped out.

16 MS. BAILEY: Mr. Chairman, should I continue?

17 VICE CHAIRMAN SOCKWELL: You may continue, yes.

18 MS. BAILEY: All of the following requirements have  
19 been met on this project, Mr. Chairman. I can't see all the way  
20 down to the other end. I think the Office of Planning's report is  
21 to be waived in. It was filed a little late, and the case is  
22 ready to be heard by the board.

23 Excuse me. There is some additional submissions  
24 that were made and that were received after the packages went out.

25 You should have those, the reviews of architectural plans, letter

1 of support from the Reverend Joseph Conway, and again the Office  
2 of Planning's report, and this case is ready for you to hear at  
3 this time.

4 VICE CHAIRMAN SOCKWELL: Let me ask if there are  
5 any persons in opposition to this application present?

6 (No audible response.)

7 VICE CHAIRMAN SOCKWELL: I want to wait until Mr.  
8 Moulden returns before we proceed.

9 MS. BAILEY: Mr. Chairman, we need to waive the  
10 report. Is it possible to do that at this time?

11 VICE CHAIRMAN SOCKWELL: We can do that very  
12 easily. I move that the Office of Planning's report, that we  
13 waive the rules, and admit the Office of Planning's report into  
14 evidence.

15 MEMBER RENSHAW: I second.

16 VICE CHAIRMAN SOCKWELL: All in favor?

17 (Ayes.)

18 MS. BAILEY: The vote is recorded. Thank you.

19 VICE CHAIRMAN SOCKWELL: Mr. Moulden will be in  
20 shortly, or in a moment, and you may proceed. Ms. Giordano, you  
21 will be speaking, I presume?

22 MS. GIORDANO: Yes.

23 VICE CHAIRMAN SOCKWELL: We are fine then.

24 MS. GIORDANO: Thank you, and good morning, Mr.  
25 Chairman, and Members of the Board of Zoning Adjustment. My name

1 is Cynthia Giardano, for the record, from Linowes and Blocher, a  
2 law firm representing the applicant.

3 To my left is Matthew Birenbaum, who is the vice  
4 president of Avalon Bay Communities, Inc. Avalon Bay is the  
5 current owner of the property. The property was actually conveyed  
6 to Avalon Bay after the application was filed, and so they will be  
7 substituting themselves for Mount Vernon as the applicant in this  
8 case.

9 To my immediate right is Eric Rubin, of the Madison  
10 Retail Group, and to my far right is Eric Colbert, of Eric Colbert  
11 and Associates, an architectural firm. I have a brief opening  
12 statement. It was my intention to try and just summarize.

13 We submitted a fairly detailed statement into the  
14 record, and if the board is comfortable with that, we will just  
15 hit the high points.

16 VICE CHAIRMAN SOCKWELL: Please.

17 MS. GIORDANO: And to try and move things along for  
18 you this morning. I am very excited to be able to present this  
19 case to you this morning. Those of us who have had some doubts in  
20 the past about the feasibility of the DD residential requirements  
21 can appreciate the importance of this project, which is a high-  
22 rise residential apartment building in the downtown and that has  
23 no government financial subsidy, and is seeking no relief from the  
24 DD residential requirements. I think that is a first.

25 Rather, we are here today to ask for some minor

1 deviations in the DD preferred retail requirements, and the  
2 residential recreation space requirements. These retail  
3 requirements receive a secondary importance in the DD overlay  
4 regulations for residential projects.

5 We are seeking a reduction first in the preferred  
6 retail requirement from approximately 11,900 square feet, to  
7 approximately 7,000 square feet. We are also seeking a variance  
8 from the residential recreation space requirements.

9 We believe that the imposition of the residential  
10 recreation space requirements in the DD on large residential  
11 projects was an unintended result because it has a severe negative  
12 impact on large residential projects in the downtown, and as I  
13 think you will see and that we will demonstrate is that it is  
14 almost impossible to provide and provide sufficient housing to  
15 meet the residential requirements.

16 In fact, in this case the residential recreation  
17 requirement is an extraordinary 31,000 square feet of residential  
18 recreation space, and 50 percent of that, which would be have to  
19 be provided outdoors according to the requirements.

20 If that requirement were strictly applied in this  
21 case, it would preclude a feasible residential project, and as we  
22 contend, could not have been an intended result.

23 Further, the basic premise of the residential  
24 recreation space requirement is an outdated notion in our view.  
25 It is outdated because the whole purpose of having residential

1 space and recreation space in a residential project is really not  
2 necessary where we have lively entertainment and recreation rich  
3 downtown, which we now have developing today.

4 And certainly it is the intention of the  
5 regulations that the residential space will support those  
6 entertainment uses that are required as preferred uses in the  
7 downtown, and in order to support those uses, it really does not  
8 make sense to require a developer to provide for competing  
9 recreation space within a project.

10 We believe that the project meets the legal  
11 requirements for variance relief in this case. The site is unique  
12 and exceptional in that it is the only private and assembled site  
13 in Chinatown of sufficient size to implement the downtown housing  
14 planning goal of establishing a residential link between the Mount  
15 Vernon triangle area where the City is seeking a concentration of  
16 residential uses, and the PADC quarter area to the south, where a  
17 good concentration of residential uses has already been developed.

18 A strict implementation of the residential  
19 recreation space requirements as I indicated before would preclude  
20 our ability to provide that link. It would also impose an undue  
21 hardship on the applicant. It would adversely impact the  
22 project's economics, and would preclude the opportunity to meet  
23 the housing goals of the City on this site.

24 The retail requirement would also adversely affect  
25 the project economics, and we will have expert testimony on that

1 issue in a moment from Eric Rubin of the Madison Retail Group.

2 At this time, before we proceed with our first  
3 witness, I wanted to just make a couple of corrections in the  
4 materials in the record. First of all, I have already covered  
5 that the applicant has changed.

6 The supplemental statement also that we submitted  
7 also refers to 209 units in the project, and it is actually 203  
8 now. They have consolidated, and made some larger units in the  
9 project.

10 We also have a little bit of confusion with the  
11 plans that were submitted. When we first submitted the plans back  
12 in May, we had not fully developed the floor plans, and those  
13 plans have now been refined.

14 We submitted updated plans with the Office of  
15 Planning report and those are the plans that we hope that you will  
16 refer to today to avoid confusion when the architect speaks.

17 With that, unless there are any questions at that  
18 point, I would like to go ahead and qualify two of our expert  
19 witnesses, and then we could proceed with our first witness. The  
20 first witness that I would like to qualify is Eric Colbert.

21 He has presented testimony before this board  
22 before. He is an expert in architecture and he is a licensed  
23 architect in the District of Columbia, and he has been qualified  
24 by this board before. So I would ask that you accept his  
25 qualification again.

1 VICE CHAIRMAN SOCKWELL: Does anyone have questions  
2 of Mr. Colbert, or do we accept him as an expert in the field of  
3 architecture?

4 MEMBER RENSHAW: I move that we accept him.

5 MR. MOULDEN: I second.

6 VICE CHAIRMAN SOCKWELL: So moved.

7 MS. GIORDANO: The second witness that I would like  
8 to qualify now is Eric Rubin. He is an expert in the downtown  
9 retail leasing market. I have just handed in for your reference a  
10 summary of his qualifications.

11 He has not appeared before this Board before today,  
12 but the Board is welcome to ask him questions after they have  
13 reviewed his qualifications.

14 (Brief Pause.)

15 VICE CHAIRMAN SOCKWELL: Mr. Rubin, you mentioned a  
16 project downtown. What was your problem with that?

17 MR. RUBIN: I was a tenant representative for the  
18 restaurant at the location.

19 MR. HOOD: Mr. Rubin, have you ever testified in  
20 front of any board or commission?

21 MR. RUBIN: Yes. I was involved as a consultant  
22 for the Washington Convention Center, retail consulting for the  
23 new convention center and the retail requirements for it.

24 We did testify in front of their board, and also  
25 the neighborhood ANCs, and all parties that were interested in the

1 retail in that area.

2 VICE CHAIRMAN SOCKWELL: So you were with Smithe  
3 for a while?

4 MR. RUBIN: Smithe-Braden, which no longer exists  
5 as a company. It had a long history from 1930, but what was  
6 Smithe-Braden is now Grubb and Ellis.

7 VICE CHAIRMAN SOCKWELL: All right. If the board  
8 members are satisfied that Mr. Rubin's experience and expertise  
9 are not to be questioned, then we would accept him as an expert  
10 witness in the field of real estate for the purpose of this  
11 hearing.

12 MEMBER RENSHAW: I agree.

13 VICE CHAIRMAN SOCKWELL: All right.

14 MS. GIORDANO: Mr. Chairman, I also submitted one  
15 additional document into the record. It is a copy of a subdivision  
16 plat that was recently recorded within the last week for the site.  
17 So there is a new lot number for the site.

18 I think it would probably lessen confusion in the  
19 future if we used that new lot number. It is lot 40, and it  
20 substitutes for all of the lot numbers that appeared in the notice  
21 and that is in our statement.

22 VICE CHAIRMAN SOCKWELL: And in some of the  
23 drawings, it was difficult to see the total extent of the lot,  
24 north to south, and that clarifies pretty much everything. Thank  
25 you.

1 MS. GIORDANO: All right. We are ready to proceed  
2 now if you are ready. Our first witness this morning is Matt  
3 Birenbaum of Avalon Bay Communities, and Mr. Birenbaum is just  
4 going to give you a little bit of background on Avalon Bay and  
5 their intentions with respect to the site.

6 MR. BIRENBAUM: Thank you. I am pleased to be here  
7 this morning. My name is Matthew Birenbaum, and I am vice  
8 president of Avalon Bay Communities.

9 We are a publicly traded real estate investment  
10 trust, and traded on the New York Stock Exchange under the symbol  
11 of AVB. As a company, we own approximately 40,000 apartments and  
12 we concentrate in the northeast corridor from the Washington area  
13 and north to Boston, and on the west coast in California, northern  
14 and southern California, and in the Seattle area.

15 As a real estate investment trust, we are  
16 developers, builders, managers, and long term owners. Our  
17 business is providing ongoing financial returns for our  
18 shareholders, and so unlike subdevelopers, which are more of a  
19 merging builder type of model.

20 As a company, we generally hold things for our  
21 own account in the long run. As a company, we are very focused on  
22 urban development in downtown areas. We recently completed the  
23 first new rental apartment building constructed in downtown San  
24 Francisco in the past 20 years in the South Market District.

25 We are working on projects, numerous projects, in

1 the New York area, and several projects in the greater Washington  
2 area. This will be our first development in the District of  
3 Columbia, and we are very excited to be part of the renaissance of  
4 living downtown.

5 We do own one other community in the District at  
6 4100 Massachusetts Avenue, Northwest, and that was a community  
7 that was developed by another party, and that we purchased in the  
8 mid '90s. And I will be available for any questions. Thank you.

9 VICE CHAIRMAN SOCKWELL: Any questions by the Board  
10 Members?

11 (No audible response.)

12 VICE CHAIRMAN SOCKWELL: All right. Ms. Giordano

13 MS. GIORDANO: Okay. We would like to move on at  
14 this point to the project presentation by Eric Colbert.

15 MR. COLBERT: Good morning, Mr. Chairman, and  
16 Members of the Board. I am very happy to be here this morning to  
17 describe our project. This is actually exciting for me because  
18 the site is right across the street from my office, which is  
19 located in the same area complex, and we are in the old girls  
20 Catholic school, and there is a church next door, and there the  
21 rectory to the north of that.

22 And that, along with the General Accounting Office,  
23 is what is going to be directly across the street from our site.  
24 Then diagonally across is the Pension Building, the Building  
25 Museum. Directly to the north is a hotel currently called the Red

1 Roof Inn, and we will actually be an addition to that building.

2 And then on the south side there is an existing  
3 store building, where there is a Burger King on the lower floor,  
4 and some law offices above that. This map that I have mounted on  
5 the board shows the extent of the Chinatown area.

6 As you can see, we are kind of at the bottom of it,  
7 and H Street being the main Chinatown commercial corridor, and so  
8 in addition to that, because of our proximity to the Pension  
9 Building, we are under the jurisdiction of the United States  
10 Commission of Fine Arts, which we have met with the Fine Arts  
11 Commission three times and obtained approval for this building as  
12 it currently is shown on these drawings.

13 And in addition to that, we met with the Chinatown  
14 steering committee and design subcommittee on several occasions,  
15 and just recently had unanimous approval for the design that we  
16 have incorporated into the project.

17 And this is a rendering. It is a 12 story  
18 building, and on the upper floors, the typical floor will have 19  
19 apartments, and then on the top floor, we have combined a few, so  
20 that the total apartments is 203.

21 And then on the ground floor, we will have a  
22 combination of -- there is no residences on the ground floor, but  
23 we will have space for the apartment occupants there for an  
24 exercise room and a small room for a business center.

25 And then other rooms for the concierge and the

1 business office to run the building, and all the additional space  
2 that is left over, on the southern side, we have 7,000 square feet  
3 for a commercial space that Eric Rubin is helping to lease.

4 And then on the north side, we have an 1,800 square  
5 foot space which will probably be a professional office. This is  
6 a drawing showing the north and south elevations, and this is the  
7 existing building on the south side that has the Burger King, and  
8 then you can see our elevation extending above that.

9 These are some boards that describe some of the  
10 designs that we are incorporating in order to enhance the building  
11 in a way that makes a statement about the fact that it is in the  
12 Chinatown area, and one of the first things that we are doing here  
13 is we have this drawing that shows the Chinese pavers that we are  
14 going to be incorporating into the sidewalk.

15 And they do have these in other areas of Chinatown,  
16 but the number of these -- we are actually having all 12 signs of  
17 the Zodiac at points along the sidewalk, and is as many times more  
18 than what you see in other areas of Chinatown.

19 I would also like to point out that these plants --  
20 we were working with a Chinese landscape architect, Peter Lu, of  
21 Lu and Associates, and he was very helpful in incorporating the  
22 different Chinese elements in the building.

23 Some of the other elements that we have  
24 incorporated include Chinese planters that we are going to have on  
25 either side of the front entrances to the building. We also have

1 a six locations the Chinatown lantern that we are going to  
2 incorporate into the sidewalk.

3 And in addition to that, Peter helped us design a  
4 steel guard rail that will go around the planter boxes that will  
5 also connote the Chinese design.

6 In addition to the landscaping and planting, we are  
7 going to -- another thing that I didn't mention is that we are  
8 going to be adding quite a number of additional ginkgo trees in  
9 front of our building.

10 And it has been very pleasant for me as a person  
11 who spends a lot of time in that area to see the older Chinese  
12 folks coming there together and getting the ginkgo nuts off the  
13 trees, and that is a real important part of their culture that we  
14 are helping to enhance in the neighborhood.

15 And in addition on the building we have added  
16 architectural ornaments, and this shows the sequence, having  
17 worked with the Chinatown subcommittee on the design, on a railing  
18 design, and we have quite a bit of that enhancing the entire  
19 facade.

20 This is a blow up of several points along the top  
21 of our building, and in addition to that, we have these guard  
22 rails going all the way up and down in several places along the  
23 facade.

24 And what we have done here is that we have evolved  
25 with the help of the Chinatown steering committee members a guard

1 rail design that will be very strong on the entire -- this side of  
2 the building that will help enhance the Chinese design character.

3 And then in addition to that, we are also adding  
4 other Chinese elements. For example, above the front door, we are  
5 going to have etched glass windows going all along the front that  
6 have a very strong oriental character. You know, directly derived  
7 from windows in historic Chinese buildings.

8 And in addition to that, at four points along the  
9 facade of the building, we are going to have canopies for the use  
10 of spaces, and those canopies will have a very dominant Chinese  
11 lettering in addition to the English.

12 And also in addition to that, we will have Chinese  
13 lettering that will say the name of the building in Chinatown in  
14 front of our building. Another or some other additional aspects  
15 of our Chinese design of the building include the fronts of the  
16 bays which have the panels, and the form of these panels and the  
17 way that the corner is rounded is something that is a motif that  
18 is very common in Chinese design.

19 In addition to that the entire base of the  
20 building, the outline of the base has been -- the profile of it  
21 was derived from the base of the buildings and sculptured in China  
22 garden panels.

23 This is a plan of the first floor of our building,  
24 and on the south side, which faces more the government buildings,  
25 we are going to have a lease space there that is 7,000 square

1 feet. This is our lobby, and the elevators, and trash room, and  
2 then we have a lounge here and a business center.

3 And then this will be the leasing and concierge's  
4 area, and then we have a fitness center here, and a relatively  
5 small residence storage. So essentially this is another 1,800  
6 square foot lease space.

7 That, along with the 7,000 square foot space on the  
8 south side -- in other words, we are taking a minimum programmatic  
9 area that we absolutely need to support the 203 apartment  
10 building, and putting that on the ground floor.

11 And then everything that is left over is what we  
12 are providing in terms of the preferred uses, the non-residential  
13 uses. This is a drawing of our typical floor plan, and as I  
14 mentioned it has 19 apartments on a typical floor, and with bays  
15 facing 5th Street, and on the rear side we have inset valvings.

16 And the building will unguilate in and out a little  
17 bit to help give it the classical artifact effect that was  
18 approved by the Fine Arts Commission. And my last document here  
19 is a roof plan, and we are committed to providing 5,000 square  
20 feet of roof deck, and actually based on my experience as an  
21 architect who specializes in residential construction, and not  
22 only new construction, which is a more recent thing for us, but  
23 also we have also been renovating a lot of older apartment  
24 buildings, and on many of those one of the parts that we have been  
25 doing is adding roof decks.

1           And based on the size of this building, at 5,000  
2 square feet, this roof deck is much larger than one that we have  
3 been providing for apartment buildings, where there is an existing  
4 building and they have asked us to add a roof deck.

5           So I feel that the client is really providing a lot  
6 of space there, and I term it as recreation space. So we have  
7 5,000 on the roof and then a thousand square feet on the first  
8 floor in the exercise room that I pointed out when we were looking  
9 at the first floor plan. Any questions?

10           MS. GIORDANO: If I might just interject for a  
11 moment and just clarify. With respect to the space that we are  
12 providing for preferred retail uses, it is the 7,500 square foot  
13 space. I'm sorry, 7,000 square foot space.

14           The 1,800 square foot retail space is the one that  
15 we would like the flexibility to lease to a non-preferred retail  
16 or commercial tenant if we are not able to lease it to a preferred  
17 tenant, and Mr. Rubin is going to explain the difference between  
18 preferred and non-preferred, and how the market is likely to  
19 influence that ability to lease that space.

20           VICE CHAIRMAN SOCKWELL: Would you prefer that we -  
21 - well, we can wait until all of your witnesses have spoken before  
22 we cross-examination them, unless the board wants to ask questions  
23 now. We can wait. Thank you.

24           MS. GIORDANO: All right. So we will proceed with  
25 Mr. Rubin then.

1 MR. RUBIN: My name is Eric Rubin, and I am with  
2 the Madison Retail Group, and I think you for having me here  
3 today. What I was asked to basically talk about is to kind of  
4 give you a brief overview, and for me that is sometimes very hard  
5 to do because I am pretty enthusiastic about what is happening  
6 with the retail climate here in the District of Columbia,  
7 especially in the downtown right now, but I will try and keep it  
8 brief.

9 If we look at downtown in general, in our terms, in  
10 real estate terms, downtown would be defined basically as 15th  
11 Street, Northwest, to about 4th Street, Northwest, where we are  
12 here; and Pennsylvania Avenue to the south, and Massachusetts  
13 Avenue to the North.

14 If we look at what has been evolving over the  
15 course of the last five, and in some cases 10 years, we are  
16 finally at a point to where we are seeing where retail is finally  
17 starting to catch up with the rest of the development activity  
18 that is going on.

19 Where basically if you look at where there has been  
20 a consistent flow of retail, it is basically at 12th and F right  
21 now. I think as we see things continuing to evolve that we are  
22 starting to see what really is a reemergence of our primary  
23 streets and our secondary streets, as far as retail is concerned.

24 I think what you all probably hear a lot of, and  
25 what we will tend to market to retailers, is the primary streets,

1 F Street from 15th Street, to the MCI Center basically, and then  
2 7th Street, from Pennsylvania Avenue up to the new convention  
3 center, and hopefully beyond as the new convention center comes on  
4 line.

5 We also see the emergence of some of the secondary  
6 retail streets. When we look at 5th Street as a street for  
7 retail, there is some problematic issues with, say, primary versus  
8 secondary. The problematic issue with 5th Street is that the  
9 street is primarily dominated by public buildings that have very  
10 little or no retail at all.

11 And what I think makes the Avalon Bay project a  
12 great opportunity for us is to basically create retail space that  
13 will serve as a neighborhood amenity to not only the residents in  
14 the building, but the neighbors there.

15 And a lot of the retail that would primarily be  
16 needed or that would go there primarily would be neighborhood type  
17 retail. That means basically neighborhood cafes, hair salons,  
18 services, and why we are asking for a variance to possibly non-  
19 alternative, non-retail use may be more commercial uses, say an  
20 accountant's office, or a law office that wants to be on the  
21 street and that wants to interact with the street, with customers  
22 coming in off the street.

23 It is very much like retail used to be, and a lot  
24 of these big offices that we have today, a lot of them started on  
25 the street front, and we see that this is a great opportunity to

1 maybe find a service type of business, like a doctor, that could  
2 serve the neighbors and the residents of the building.

3 And I think it is also a great opportunity, because  
4 our primary streets of F Street and 7th Street, we still have a  
5 lot of work to do on them. There is a lot of leasing, and there  
6 is a lot of convincing to tenants, national and local tenants,  
7 that that is the place to be.

8 But we are seeing the rents go up significantly in  
9 those streets, because they are being touted as the primary retail  
10 streets. And 7th Street especially being more geared towards  
11 entertainment retail, and the rents tend to be higher there.

12 And 5th Street and the Avalon Bay project can be a  
13 great opportunity as we feel for local entrepreneurs that have  
14 businesses that want to do something that would both serve as an  
15 amenity to the building to keep the residents happy, because those  
16 are the primary customers, and the neighbors.

17 It is a great opportunity for them to be put in the  
18 business, and also the rents on 5th Street will also probably be  
19 significantly cheaper than what they would be on 7th Street.

20 And this is an ongoing issue that we will probably  
21 have to address later on, and especially with a lot of local  
22 retailers, because it is becoming very difficult for them to find  
23 locations because of landlords' demands in the market and the  
24 higher rents that are asked for.

25 But this would be a great opportunity for local

1 neighborhood type of retailers to service this project and the  
2 surrounding neighborhood, as well as the non-related commercial  
3 uses that we could put that could also be a great service for  
4 people to just walk in for convenience purposes.

5 MS. GIORDANO: That concludes our testimony, and we  
6 would be happy to answer any questions.

7 VICE CHAIRMAN SOCKWELL: All right. Board Members.

8 MEMBER RENSHAW: Yes, I will start out with some  
9 questions for you since I know that that spot is close to the  
10 Metro Building, and to the south two blocks.

11 And I believe that is exactly where I had to park  
12 my car when I had an appointment at Metro the other week. So I  
13 will be sad in one sense to see a service parking lot go. They  
14 are hard to come by. Which leads me to the question of how much  
15 parking are you providing.

16 MR. COLBERT: We are actually providing about 150  
17 spaces, which the requirement in this zone is one space for every  
18 four dwelling units. So we are providing more than three times  
19 the zoning requirement.

20 MEMBER RENSHAW: Is that going to be available for  
21 public parking, or just for those in the building?

22 MR. BIRENBAUM: We are examining that now. The  
23 first purpose of the parking is for the residents in the building,  
24 but to the extent that there is demand that can support a more  
25 managed parking facility, then it could be opened to the public.

1                   MEMBER RENSHAW:     And where do you access the  
2 parking from; from the back of the building or from the alley?

3                   MR. COLBERT:    Yes, this is the first floor plan and  
4 this is the parking garage entrance, which is very close to G  
5 Street.

6                   MEMBER RENSHAW:   Let me know how to get in there  
7 when you are finished.   Thanks.

8                   MR. HOOD:       Mr. Colbert, I just have a brief  
9 question.   The signs identifying the complex, where is that going  
10 to be?

11                   MR. COLBERT:    Yes.   Actually, I don't know if this  
12 is very visible, but what we are planing to do at this point is to  
13 have the words "Avalon" and they haven't made a final decision  
14 about the name yet.

15                   But it looks like it will probably be Avalon at  
16 Gallery Place on the stone above the front door.   And in addition  
17 to that, it will also be in Chinese in that location.

18                   MR. HOOD:       Okay.   I am treading thin water here.  
19 Maybe I should yield to my colleague who is an architect, but to  
20 me looking at this -- and I heard you say that you are going to  
21 add some additional trees, because what you have here looks like  
22 it is a little -- I don't want to use the word naked, as that is  
23 not fair.   But how many trees would you propose to put in front of  
24 the complex?

25                   MR. COLBERT:    I think right now there are only

1 about three, and we are going to be having eight. So the actual  
2 spacing here is the maximum that we can provide given the D.C.  
3 requirements towards tree spacing. In other words, we could not  
4 get any closer with the trees than what we have shown.

5 MR. HOOD: So in other words, four is probably the  
6 max that you can do?

7 MR. COLBERT: Yes, an additional four.

8 MR. HOOD: An additional four, and so a total of  
9 eight?

10 MR. COLBERT: Right.

11 VICE CHAIRMAN SOCKWELL: You see, I think the  
12 elevation -- if I might interrupt -- is not indicative of what the  
13 plan shows, in terms of numbers of trees.

14 MR. COLBERT: Yes, the rendering just shows  
15 existing trees, but after that, we worked with our Chinese  
16 landscape architect, and we have added four additional trees. And  
17 I put this drawing back up because that is what these points  
18 represent, these boxes on each side.

19 MR. HOOD: Okay. No further questions. Thank you.

20 MR. MOULDEN: Was the landscaping approved by the  
21 Fine Arts Commission also?

22 MR. COLBERT: No.

23 MR. MOULDEN: Okay. Was there a separate  
24 landscaping plan that was submitted then?

25 MR. COLBERT: We will have to -- we will be filing

1 for the final construction documents and those details will have  
2 to be approved by the Fine Arts Commission.

3 MR. HOOD: Okay.

4 MR. MOULDEN: And my next question deals with  
5 density. Part of this application request is for a variance for  
6 the density for the FAR and the height. What is basically driving  
7 your request for an increase in density? Is it the parking?

8 MS. GIORDANO: The application itself -- the  
9 density is a matter of right, and the height is a matter of right,  
10 and the FAR of the total project is matter of right.

11 It is the density of the preferred retail  
12 requirement that we are seeking an adjustment in, and then the  
13 residential recreation space requirement, which are geared to FAR.

14 So I know that it is confusing.

15 MR. MOULDEN: Correct. So what is basically  
16 driving that?

17 MS. GIORDANO: The residential recreation space  
18 requirement is approximately 30,000 square feet of recreation  
19 space in the project, and 50 percent of which, about 15,000 square  
20 feet, has to be provided outdoors.

21 The footprint of the roof -- and this is where most  
22 projects include that residential recreation space -- is not even  
23 sufficient to meet about half that requirement. There is this  
24 occupancy, which is about 80 percent, and that is a matter of  
25 right.

1           And the site backs up on to an alley, and a lot of  
2 the rear yard area is devoted to access. So there is nowhere to  
3 put that residential recreation space on the lot other than on the  
4 roof. And we provided the maximum that we can on the roof without  
5 interfering with the mechanical requirements.

6           So we have done what we can with the residential  
7 recreation space requirement, but we can't meet the maximum. And  
8 as I indicated before, I think that that maximum requirement was  
9 probably -- you will concede -- to begin with in the DD overlay.

10           We just probably never really sat down and analyzed  
11 it when the DD overlay was adopted, and increased the residential  
12 FAR maximums on these sites. The residential recreation space was  
13 not adjusted accordingly.

14           Now, with the retail variance, we are providing a  
15 7,000 square foot floor space for one preferred retail tenant, and  
16 there is one more space left over after we provide the lobby area  
17 that is needed for the residential building, the fitness center,  
18 the conference center, which is a small area where tenants can use  
19 computers, which has become sort of a given in a high-end  
20 residential building.

21           And after we provided that space there is only an  
22 1,800 square foot space left over for additional commercial use,  
23 and it is that space, because of its small size, and because of  
24 its location adjacent to the northern end of the building where  
25 there is not as much retail or office use surrounding, that we are

1 concerned we may not be able to get a preferred retail tenant.

2 We think that it is more likely that we could get a  
3 local serving, a small law office, or doctor's office, or  
4 something of that nature, which will help provide some street  
5 traffic, which is the point of the preferred retail uses.

6 But it does not technically meet the preferred  
7 retail requirement. The preferred retail uses are listed, and it  
8 is somewhat arbitrary. It is an arbitrary listing of uses, and  
9 those uses are not listed.

10 So we wanted the flexibility with regard to the  
11 1,800 square feet, and to lease it for an office tenant if we  
12 cannot find a preferred retail tenant. And then we need the  
13 overall reduction because there is nowhere else in the building to  
14 put any additional retail use other than to go up to the second  
15 floor, which is not viable, and would preclude some of the  
16 residential space that we are providing.

17 MR. MOULDEN: Where would your loading and delivery  
18 area be located?

19 MR. COLBERT: That is along the alley, and we have  
20 a service and delivery space here, a 55 foot loading bay in this  
21 location, and another loading area here.

22 VICE CHAIRMAN SOCKWELL: All right. I have a few  
23 questions to ask. The first one is that you spoke of the ginkgo  
24 being provided as the tree, which is probably the designated  
25 species, but the designated species for D.C. is a ginkgo male.

1 You are talking about female ginkgoes, which will be producing  
2 fruit.

3 And I do not believe that the ginkgo female is  
4 currently on the recommended list. I grew up in Adams-Morgan, and  
5 we had a multitude of them all along 18th Street, and at certain  
6 times of the year they are very aromatic, to say the least, plus  
7 you have to walk over the fruit as you go by.

8 But I don't know if the ginkgo female is an  
9 acceptable species anymore, and you might want to check with Bill  
10 Beck at the tree division.

11 MR. COLBERT: We will check that.

12 VICE CHAIRMAN SOCKWELL: The second question is how  
13 do you plan to attract residents of Chinese descent since there  
14 are so many features to the building which represent valuable  
15 elements in the Chinese community's heritage.

16 MR. BIRENBAUM: I can speak to that. WE have had  
17 numerous discussions with the Chinese community on the design  
18 elements of the building, and which Eric reviewed, and as part of  
19 that, we have also talked about how we can make our presence known  
20 in the Chinese community and are developing a plan for outreach to  
21 that community, including advertisements in Chinese language  
22 newspapers, posting of notices in businesses, throughout  
23 Chinatown.

24 As well as I think that anybody who lives or does  
25 business in that area as construction starts will certainly become

1 aware of the activity, and we will have obviously leasing staff  
2 available.

3 But we are planning to do outreach to the community  
4 in order to try and extend ourselves to the community as much as  
5 we can, and incorporate ourselves within the neighborhood.

6 VICE CHAIRMAN SOCKWELL: Because the Wah Luck is  
7 probably the only major residential property for the Chinese  
8 community within Chinatown, and it would be prudent of any  
9 developer to research the facilities and activities provided in  
10 Wah Luck House to make sure that such a building as this would not  
11 be sterile, in terms of its outreach to that community.

12 And something -- and nothing was discussed in your  
13 presentation -- ornamentation was discussed, and mostly exterior  
14 ornamentation, but nothing of a programmatic nature.

15 And I would think that that would be very important  
16 for us to see, because part of bringing the "Living Downtown" back  
17 into Washington is to be able to accommodate the residents that  
18 are there now, and to bring back the character that is often  
19 missing from neighbors.

20 And we can talk about that a little bit more, and  
21 also the leasing and marketing space appears to have been provided  
22 on the high profile side of the building, and on the principal  
23 facade, where one might seek more of a retail or commercial  
24 character, rather than placing it in a less prominent location.

25 Because it is really just a function of management,

1 and a short term function for the tenants when they are moving in  
2 and needing things, and then it would be the staff support area,  
3 and it really shouldn't be on the front of the building, wasting  
4 potentially valuable retail commercial space.

5 The next thing that I wanted to speak to was that  
6 in the zoning ordinance, and this has been argued for many, many  
7 years, in order to be an addition to an existing building, there  
8 has to be a connection, and that connection is not shown in the  
9 drawings that were presented to us.

10 And, in fact, that connection would compromise the  
11 1,800 square foot retail space that is on the north end of the  
12 building, because the connection, in order to work, cannot be  
13 below grade. It has to be at the principal facade.

14 And we found -- and since we have done numerous  
15 buildings that were additions, it is often been distorted as to --  
16 or let's say difficult to achieve a compromise as to what that  
17 connection should be.

18 Should it be a connection between principal  
19 lobbies? Should it be a connection acceptable going into a stair?

20 Is it a connection that is a meaningful connection, and the  
21 zoning ordinance is a bit silent on exactly what it means.

22 So I want to know what you plan to do with that.

23 MS. GIORDANO: Okay. I am going to ask Eric if he  
24 would point out that connection, and note that we have reviewed  
25 this issue with the zoning administrator.

1 VICE CHAIRMAN SOCKWELL: Mr. Johnson?

2 MS. GIORDANO: Yes.

3 MR. COLBERT: Actually, the plans do show a door.  
4 There is an existing door on ours for the hotel, and so when we  
5 designed that, that's the reason that we had that there, because  
6 we knew that we had planned it so that we could do a division  
7 later.

8 So, you know, if this is a professional office,  
9 there will be access from that space into the hotel.

10 VICE CHAIRMAN SOCKWELL: What is on the opposite  
11 side of the door as you show it now, and as the architect of the  
12 hotel you should know.

13 MR. COLBERT: There is a corridor there that goes -  
14 - there is a restaurant, and then leads to the lobby of the hotel.

15  
16 VICE CHAIRMAN SOCKWELL: All right. Because the  
17 drawings that were originally submitted on the -- well, the ones  
18 that I have here in front of me, which are actually the latest  
19 drawings, do not show at the first floor a connection at all.  
20 These are the revised drawings.

21 MR. COLBERT: Well, we will have a door there.

22 VICE CHAIRMAN SOCKWELL: Let's talk about the  
23 requested relief. Basically, the relief from the residential  
24 recreation space would be the provision of 5,000 square feet  
25 versus the 15,525 square feet.

1 MS. GIORDANO: It is actually 6,000.

2 VICE CHAIRMAN SOCKWELL: That is outdoor recreation  
3 space, which would only be 32 percent of that which is required  
4 under the "Downtown Development District."

5 And your total space would be 6,000 versus 31,050,  
6 which is only 19 percent of that which would be required under the  
7 regulations. And although balconies are not considered to be  
8 recreation space by definition in the code, how many of the units  
9 will have private balconies?

10 MR. COLBERT: About 50 percent.

11 VICE CHAIRMAN SOCKWELL: In addition, the retail  
12 space that you wish to have before we take out the 7,000 from the  
13 8,800, if we take the 8,800 as originally shown, versus the  
14 required 11,920 square feet of preferred use retail, we are only  
15 looking at having provided 74 percent of that which would have  
16 been required under the regulations.

17 Now, if we further reduce that to 7,000 square  
18 feet, we are at 59 percent. So we are asking for significant  
19 relief from that. And in the original prehearing statement, I  
20 believe it was stated that the requirements for your management  
21 and what not were particularly important in regard to their impact  
22 on the ground floor.

23 And when I look at them, I don't see a great deal  
24 of importance to those spaces, in terms of the impact, but just in  
25 terms of the way that the prehearing statement was written, it

1 appeared to overplay the impact of that on the decision to reduce  
2 the preferred use retail commercial space.

3 But those are the questions that I wanted to raise  
4 generally, and I am sure that the Chinatown guidelines that will  
5 be used will be the ones that Alfred Lu originally generated some  
6 years ago. I have an autographed copy from Mr. Lu.

7 MR. COLBERT: Yes.

8 VICE CHAIRMAN SOCKWELL: And I want to make sure  
9 that anything that is developed within the community truly  
10 responds to this community and its supposed needs based on the  
11 fact that it is Chinatown, and its real needs based on the fact  
12 that so few Chinese live there, along with attracting certainly  
13 the broad base of residents to the area.

14 How are the units to be priced in the general  
15 spectrum of market rate?

16 MR. BIRENBAUM: The units will be basically rented  
17 out at market, and the current market in that area would range  
18 anywhere from \$2.25 to \$2.35 per square foot per month. That  
19 gives you a range anywhere from \$1,200 a month, on up to \$3,000 a  
20 month, and probably more for penthouse and very large apartments.

21 VICE CHAIRMAN SOCKWELL: Does this meet the income  
22 and space needs of members of the Chinese community that are  
23 currently living within Chinatown? Does it attract by any portion  
24 of its rental structure those people who might wish to live in  
25 Chinatown who might be living in the Wah Luck House at a certain

1 rate? Are your rates comparable to Wah Luck House in any way?

2 MR. BIRENBAUM: I believe Wah Luck House is a  
3 subsidized development that receives Federal and local subsidies  
4 in exchange for reducing the rents. So I am not intimately  
5 familiar with that development, but I believe it is a subsidized  
6 development.

7 This will be a market rate development and so I  
8 would imagine that the rents are significantly different.

9 VICE CHAIRMAN SOCKWELL: So it is possible that it  
10 might actually freeze out the community completely?

11 MR. BIRENBAUM: Presumably the people that are  
12 already living in the neighborhood, we are not displacing any  
13 residents.

14 VICE CHAIRMAN SOCKWELL: That isn't what I said.

15 MS. GIORDANO: I don't think that Avalon Bay has  
16 done a detailed market study of that small area of the downtown.

17 There is -- and I am no expert on this, but I  
18 believe that you are right that Wah Luck House is the primary  
19 concentration of housing for the Chinese in that area.

20 VICE CHAIRMAN SOCKWELL: At least quality, well  
21 maintained, modern housing.

22 MS. GIORDANO: There is not a large residential  
23 Chinese community in Chinatown. It is primarily a business  
24 community.

25 VICE CHAIRMAN SOCKWELL: Right.

1 MS. GIORDANO: And as Mr. Birenbaum said, there is  
2 obviously going to be quite a gap between the subsidized housing,  
3 and Wah Luck House, and this project. And there is no plan to  
4 really bridge that gap that is consistent with the economics of  
5 this project.

6 VICE CHAIRMAN SOCKWELL: Well, one of the  
7 inconsistencies is always that in looking at a community and its  
8 infrastructure, both from a visual and a real point of view, you  
9 have a situation where a building will address the physical  
10 features of something that should be there, but might not have one  
11 single resident, or one single truly related individual, descent-  
12 wise, living there.

13 It will bring in new workers who are coming into  
14 the city as the city develops into a more revitalized economic  
15 core, and yet because it carries the motifs of Chinatown, and  
16 because it responds with the exterior features, with the  
17 streetscape elements, with the Chinese tiles, with the ginkgo  
18 trees -- and of course that is not your responsibility if it is a  
19 designated tree.

20 But all of those elements, along with some program  
21 to at least reach out to the Chinese community, should be part of  
22 the plan. And I haven't seen anything that let's me believe that  
23 this is more than another apartment building built downtown to  
24 house new residents, and not try to attract any of the people  
25 whose lettering in konge or whatever will be on that building.

1           And I would like to think that there would be some  
2 greater outreach, even to the extent that there is some cultural  
3 connection that could be brought to bear to make this meaningful  
4 to Chinatown. That's all.

5           MEMBER RENSHAW:     Mr. Chairman, on your comment  
6 about the cultural connection, I would suggest that you bring the  
7 motifs inside, or in other words, extending the wall space in the  
8 lobby area to those artists in the community who might have works  
9 that they would like to display.

10           That's one way of bringing the community inside the  
11 residence. I would also like to ask if any portion of this  
12 building is going to be set aside for affordable housing, or is it  
13 all as you have described it to be, luxury apartments? Would you  
14 comment, please?

15           MS. GIORDANO: We appreciate your suggestion on the  
16 wall space. I think that is an excellent suggestion. There is no  
17 provision for subsidized housing in this project, or low income  
18 units in this project. There is no requirement to do that.

19           In fact, the zoning regulations in the DD overlay  
20 provide some options for providing low to moderate income housing,  
21 where you are permitted to do less than the residential  
22 requirement if you provide low to moderate income units.

23           And very often to provide them outside of the DD  
24 area, and to actually move those units off site. This project is  
25 trying to provide a critical mass, and a substantial concentration

1 of housing in the downtown, and not to move units off-site, or to  
2 decrease the amount of units by providing low to moderate income  
3 units in exchange.

4 That's the primary impetus of this project, and the  
5 primary planning goal that it is trying to satisfy, is to get a  
6 substantial concentration of housing in this location.

7 And unfortunately I guess the project can't do all  
8 things for all goals. That is the one that we are trying to  
9 satisfy here.

10 MEMBER RENSHAW: I can understand that. I worked  
11 on the downtown plan, and I know that one of my first impressions  
12 of the District when years ago I came as a visitor, as a tourist,  
13 was that on the weekend that the downtown was empty.

14 There was nothing down here at all, save on the  
15 activity on the mall. So I applaud any efforts to bring housing  
16 into the downtown area, and as long as it meets with the  
17 community's approval of that particular area, then that satisfies  
18 me and seeing and making sure that you do have a way of bringing  
19 the community into the residence, vis-a-vis perhaps the art  
20 avenue.

21 I would strongly suggest it. It might be a unique  
22 effort of this -- of your real estate concern. I also wanted to  
23 ask a question about the fitness center.

24 I take it that this is going to be not a chain  
25 operation, and that it is a do it yourself fitness? You just have

1 the equipment there and the residents use it as they need it or  
2 they want to?

3 MR. BIRENBAUM: That's correct, and in fact it is a  
4 very significant amenity to our residents to be able to work out  
5 within the building. It is open and available to the residents 24  
6 hours a day with a card key access.

7 MEMBER RENSHAW: Is it open also to the Red Roof  
8 Inn persons or residents? Well, not residents, but visitors?

9 MR. BIRENBAUM: No, I believe the Red Roof has its  
10 own fitness workout room of some kind for the guests.

11 MEMBER RENSHAW: When Chairman Sockwell brought up  
12 the business about the access to the inn, and the 1,800 square  
13 feet of space, that entrance/exit is going to really make it very  
14 difficult for that space to be utilized well. It is not going to  
15 be the most attractive space, I think, to rent.

16 And so I am wondering do you have any other  
17 thoughts as to how this is going to be other than just a connector  
18 space?

19 MR. COLBERT: I think that in the leasing that  
20 there may be an opportunity there to come up with a tenant that  
21 might gain some benefit from having that additional access.

22 MEMBER RENSHAW: You have cited perhaps an  
23 accountant or a lawyer. Is there any other thoughts? I just see  
24 it as kind of a blank space, and I hope that it is not going to be  
25 blank space, because that is not what you want.

1 MS. GIORDANO: Right. That's exactly what we are  
2 trying to avoid, is having a dark space there, because we can't  
3 attract a preferred retail tenant. That's one of the primary  
4 purposes of the variance, is to give us more options so we can  
5 make sure that that space is not dark.

6 MR. COLBERT: I think another market for that space  
7 that would play well with both the hotel residents and our  
8 residents would be personal service uses, and we find a demand for  
9 this in a lot of our communities, whether it is a nail salon, hair  
10 salon, a massage therapist, something along that nature.

11 MEMBER RENSHAW: Sports medicine?

12 MR. COLBERT: Sure.

13 VICE CHAIRMAN SOCKWELL: Just one more thing before  
14 we move forward, and that is that although you may not be the type  
15 of property that will attract a moderate or lower income  
16 individual -- and by the nature of what is being provided and what  
17 not, that certainly may not be the case.

18 But it would seem to be the right thing to do to  
19 step beyond the box and attempt to attract residents of Chinese  
20 descent to come back into the city, and move into Chinatown, and  
21 live in a building that embraces some of their cultural heritage  
22 and interests, along with everyone else's, for a cross-cultural  
23 experience.

24 And meets the needs of the community as we would  
25 like to characterize it, and not a dining Chinatown, but a living

1 Chinatown. I mean, people go to Chinatown to go to Chinese  
2 restaurants, or at least they used to.

3 Now they go to Chinatown to go to the MCI Center,  
4 and to go to barbecue places, and Brazilian restaurants. But  
5 there are still no currently developed new projects inviting them  
6 to live in Chinatown.

7 MS. GIORDANO: We will take up that suggestion and  
8 I think that Mr. Birenbaum indicated that it was his intention to  
9 advertise in venues that would make the project known to Chinese  
10 descent individuals. And maybe we need to look a little more  
11 carefully at that.

12 VICE CHAIRMAN SOCKWELL: And hopefully find people  
13 who can write the Chinese language so that those can be -- so that  
14 those advertisements can be properly dictated, and generated, and  
15 disseminated.

16 MR. BIRENBAUM: Absolutely. I would just add that  
17 as a company we do have a lot of experience in urban communities,  
18 and in ethnically diverse communities.

19 As an example, our community that I was mentioning  
20 before in San Francisco, we actually had both on the website, and  
21 when you visit the community of Fang Shea (phonetic), a guide that  
22 would lay out the grid on each of the apartment layouts, because  
23 that was a significant target market for that community, and that  
24 could well be the case here as well.

25 VICE CHAIRMAN SOCKWELL: Yes, you could have a Fang

1 Shea (phonetic) consultant right here to work with each apartment  
2 for any Chinese and Americans. I mean, Americans in California  
3 are more into Fang Shea than anybody else these days.

4 But the point is that things like that are ideas.  
5 I think we can proceed if there are no more questions from the  
6 Board Members to the reports, and I believe we have government  
7 reports from the Office of Planning, and do we have a DPW report?

8 MS. BAILEY: No, sir, we do not.

9 VICE CHAIRMAN SOCKWELL: All right. I guess if the  
10 report that we have is the Office of Planning Report, then I  
11 assume that Ellen McCarthy is going to deliver that for us.

12 MS. MCCARTHY: Yes, Mr. Chairman, I have some  
13 things to add, but I am going to have our second newest staff  
14 person, Maxine Brown-Roberts, who is going to do the -- since you  
15 have our written report, she is going to do a summary of the  
16 Office of Planning report.

17 And then I have some additional observations, some  
18 of which deal with some of the concerns that the Commissioners  
19 have raised to just add to Maxine's report.

20 VICE CHAIRMAN SOCKWELL: All right.

21 MS. ROBERTS: It is the Staff's opinion that the  
22 requested variances should be approved, as they fulfill the aim of  
23 the residential use in the downtown element of the comprehensive  
24 plan to encourage residential use in the Gallery Place/Chinatown  
25 area, which is between the Pennsylvania area quarter and the Mount

1 Vernon Square triangle.

2 The proposed variance would not be detrimental to  
3 the public good and will not impair the purpose or the integrity  
4 of the zoning regulation, plan, or map. It is our opinion that it  
5 will enhance and fulfill these recommendations and bring some  
6 additional activity to that area. Thank you.

7 The first variance test is from Section 773, which  
8 is the residential recreational space, which required 15 percent  
9 of the gross residential floor area to be dedicated to residential  
10 recreational uses.

11 It is our opinion that the variance requested for  
12 this, due to the narrowness and the -- I'm sorry, due to the  
13 narrowness of this space -- that to fulfill this 15 percent  
14 residential space requirement is greater than the entire size of a  
15 lot, and the opportunities providing outdoor recreational space  
16 are limited and non-existent due to the long and narrow shape of  
17 the property, and the requirements of loading facilities and  
18 access to the parking garage in the rear area.

19 Secondly, the variance from Section 1705.3 for the  
20 preferred retail uses, the applicant states that the proposed  
21 development is being combined with the Red Roof Inn.

22 The location of the proposed project on the east  
23 side of Chinatown along the major 7th Street commercial retail  
24 corridor, the Staff supports the requested reduction in the retail  
25 arts use requirement on the subject property.

1           There was no support submitted from the ANC to  
2 staff on this project due to the fact that there was no quorum.  
3 Thank you.

4           MS. MCCARTHY: I wanted to address in particular --  
5 I wanted to first of all state -- and we would be glad to go into  
6 more detail in our report, but I thought that we would just hit  
7 the highlights, and then the Commissioners could question us  
8 further on any of the variance tests or the specifics of our  
9 report.

10           But I did want to indicate that the Office of  
11 Planning strongly supports this project. The Mayor's task force  
12 that has been meeting on downtown housing issues is about to  
13 propose -- and we are looking to try to get it set down for a  
14 public hearing at the next zoning commission meeting on the 16th  
15 of October, where the task force has endorsed a bundle of  
16 regulatory reforms.

17           One of the key ones is a relaxation of the  
18 recreational space requirement in the downtown area. The  
19 requirement is -- here we are in the middle of the downtown in an  
20 area that we are attempting to encourage high density housing,  
21 because that's the appropriate density for our downtown.

22           And yet because the recreational requirement is a  
23 percentage of the total square footage that is in the building, it  
24 penalizes anybody who is producing high density housing, just at  
25 the point in which we need every unit we can get, because the

1 downtown action plan which we are also about to finalize in  
2 October, points out that we will be almost a thousand units under  
3 the 5,400 unit target that had been set in the comprehensive plan  
4 for housing south of Massachusetts Avenue.

5 So the large number of units on this site is really  
6 critical to meeting that target. The fact that they have taken a  
7 parcel which is zoned mixed use and instead of putting a large  
8 commercial component on here, are doing an all housing alternative  
9 was a big boost to try to meet those goals.

10 So to turn around and in effect penalize them  
11 because using the extra density left over from the hotel and the  
12 density that was contained on that site means that they have  
13 increased their recreation space requirement on a site that is --  
14 it is an unusually good site for housing in downtown, in that it  
15 is very efficient.

16 It is long and narrow, and so in order to provide  
17 light and window access, you don't have to do the usual kind of U-  
18 shaped courtyard or similar sorts of interventions in your area,  
19 in your lot configuration, that you might normally have to do if  
20 you had a shorter, deeper lot.

21 That's great in terms of being able to produce good  
22 units with good views that we think will be very marketable for  
23 the downtown, but it is bad if you are looking to be able to  
24 provide more recreation space, because it means that you don't  
25 have to leave a courtyard in the middle of it, and you don't have

1 to have extra space around it in order to get the distance from  
2 the windows or the walls that are in the building next door.

3 As a matter of policy the Office of Planning would  
4 prefer to encourage since we have a building that is downtown, and  
5 within steps of the mall, and within steps of many museums and art  
6 galleries, bars, cafes, restaurants.

7 We would rather see the residents of downtown  
8 choosing to enjoy their recreation by supporting downtown  
9 businesses, and by taking advantage of downtown open space and  
10 recreational opportunities, and enlivening the streets, and  
11 contributing to the sense of downtown as a place that people would  
12 rather be.

13 And so in this instance we are very enthusiastic  
14 about anything that we can do which makes it more economically  
15 viable to develop housing downtown, and at the same time not  
16 penalizing or not compromising on the goals of the "Living  
17 Downtown," which we think in this instance in particular applies  
18 to the variance from the recreation space.

19 With regard to the retail requirement, the Office  
20 of Planning is generally very strong on the importance of downtown  
21 retail, but what the downtown plan in particular talks about is  
22 the importance of unbroken bands of continuous retail space  
23 because of the benefit they have to not only providing a variety  
24 of goods and services for potential retail patrons downtown, but  
25 also because of the effect that they have on the streetscape, of

1 creating in effect shopping boulevards, and shopping areas.

2 Well, if this project were on F Street or G Street,  
3 there would be no way that we would support a reduction of the  
4 retail space; and if it were on F and G Street, I'm sure that the  
5 developer would not be interested in that, because there would be  
6 a demand for retail along that space.

7 There would be other retail to be clustered next  
8 to, and there would be the advantages of having a critical mass.  
9 In this instance, because we are talking about 5th Street, and  
10 because we are talking about being across from St. Mary's, which  
11 is a beautiful building architecturally, but which is not  
12 generating a whole lot of retail presence, and nor is the GAO  
13 exactly contributing to the street life.

14 Nor is the Metro Building to the south of this, or  
15 the Pension Building. There is very little else that would  
16 support a critical mass of retail in this area. We think that the  
17 plans for the space on the corner, which is more approximate to  
18 traffic going to the MCI Center, and which is more visible because  
19 it is closer to the Metro and to the Pension Building, and to GAO,  
20 in terms of potential customers, we think that makes a lot of  
21 sense to have and to concentrate the retail there.

22 We certainly hope -- I think what Mr. Birenbaum was  
23 just talking about, in terms of the personal services retail, that  
24 would fit in well. It would be an excellent use of that site,  
25 those kinds of services.

1           There are not that many of those kinds of services  
2 clustered in the area, but we think giving the developer the  
3 flexibility makes a lot of sense. In terms of the issues of  
4 Chinese residents and subsidized housing, you know, certainly, Mr.  
5 Sockwell, I think we would agree with you that we would like to  
6 see Chinatown be more than simply Chinese restaurants.

7           But I think that is exactly why this building as a  
8 market rate building is an important addition to Chinatown,  
9 because at this point in time we almost force young professionals,  
10 the middle class, Asian-Americans, who might be otherwise  
11 interested in being in Chinatown, out into the suburbs, because  
12 there is very little housing in that area which is not either  
13 subsidized or elderly housing.

14           And so having a building there which is market  
15 rate, and which is attractive, I think has a better chance of  
16 serving that potential market, and filling an important niche.

17           And lastly, I guess, I would remind the commission  
18 that in addition to Wah Luck House, which is D.C. public housing,  
19 or subsidized public housing, we also have Judiciary House, which  
20 is where this building would be located in between, Wah Luck and  
21 Judiciary House.

22           And we need market rate housing there to help make  
23 the connection between the housing that there has been a  
24 substantial Federal investment in, and the Pennsylvania Quarter  
25 area, and the housing that the district foresees putting a major

1 push on to develop in the Mount Vernon triangle area.

2 The "Downtown Action Plan" which I alluded to has  
3 recommended as one of its first action steps that the District  
4 issue the request for proposals for housing on the Wax Museum  
5 site, which is just slightly to the north and east of this  
6 project.

7 And this project, along with some residential that  
8 is being planned for Square 517, and with the housing that is in  
9 Gallery Place, will begin to make a critical mass in the middle so  
10 that you have the Penn Quarter housing clustered around  
11 Pennsylvania Avenue and going up the 6th and 7th Street corridor,  
12 and you have this housing slightly to the north and east of that,  
13 between Gallery Place and the Avalon Bay project, and then you  
14 will have the substantial concentration of housing in the Mount  
15 Vernon triangle area, which we think planning wise makes a lot of  
16 sense in their locations.

17 And that it is important to have market rate  
18 housing mixed in with the subsidized housing which is already  
19 there. So, thank you very much, Mr. Chair.

20 MR. MOULDEN: This question is to the Office of  
21 Planning. I was concerned with this residential requirement and  
22 the great concentration to have housing downtown. Is that  
23 something that should be looked at in the zoning ordinance that  
24 has had these issues come up before and other major developments  
25 in meeting that 15 percent requirement?

1 MS. MCCARTHY: Yes. There will be -- I know of at  
2 least two other cases besides this one, that if we can't hurry up  
3 and do something about the residential requirement before the  
4 zoning commission, your time will have to be taken up in hearing  
5 these cases, and that's why we want to push for the October  
6 setdown.

7 And that's because it is everybody that is looking  
8 at developing housing downtown, especially those who are in the C-  
9 2-C and C-3-C areas, are running up against the difficulty of  
10 providing this space.

11 You know, the rest of the package would also permit  
12 things like -- since the DDD essentially establishes a 130 foot  
13 height limit for all -- both C-4-C and C-3-C, and C-2-C, of  
14 permitting people to increase the density of housing provided on  
15 the site, because the floor to floor heights that are needed for  
16 office are substantially greater than for housing.

17 So you can actually pack more housing into the same  
18 overall height of building, and that is one of the other pieces of  
19 the package that we will be proposing to the zoning commission.

20 But they are all geared toward saying that we have  
21 got a hot housing market now, and we have got a comprehensive plan  
22 that established a set of targets and goals for that area. Let's  
23 look at our zoning regulations and make sure that there is nothing  
24 there that would discourage the construction of that housing.

25 MR. MOULDEN: So, in summary, I guess this part of

1 the zoning code presents a hardship for this case and probably  
2 others, I guess?

3 MS. MCCARTHY: Yes.

4 VICE CHAIRMAN SOCKWELL: I think that regardless of  
5 the zoning requirement, the issue can probably be brought into  
6 focus in another way. Having lived in a 330 unit apartment  
7 building for any number of years, which dwarfs this thing and  
8 makes it look like small potatoes, I know the extent to which roof  
9 terraces are used, and to the extent to which outdoor recreation  
10 space is utilized when it is there, and that is in great expanses.

11 My building had roof terraces on both ends. It was  
12 shaped very much like this one. It was a block long. It also had  
13 one of the largest swimming pools in the City, or has I should  
14 say, and had a sunken garden, and other amenities.

15 But very seldom did large numbers of residents take  
16 advantage of most of that. They seemed to prefer the roof deck  
17 because of the view. But there was very little use of the other  
18 outdoor spaces, especially not to the extent that, say, 31,000  
19 square feet in this case would be essentially tremendously used if  
20 it were to be produced.

21 But the idea is that a certain amount of  
22 residential recreation space will be utilized, and a certain  
23 amount should be produced, and perhaps there should be some  
24 mechanism by which the utilization of recreation space has been  
25 documented.

1           Perhaps the planners have something in their  
2 research, and perhaps behavioral scientists and social scientists  
3 have looked at these things. But right now I do believe that for  
4 this project to go forward, and effectively go forward, that a  
5 significant reduction would be warranted based on my personal  
6 experience with such spaces, and based on the site configuration,  
7 and the intention to increase the critical mass of downtown  
8 housing.

9           But by the same token, I think things like pushing  
10 the back of house functions into prime store front space are not  
11 the way one should do it. I think that the rental office is a  
12 rental office.

13           It is not to be pushed to the front because what  
14 goes on in there isn't going to attract people. It could go in  
15 another location, perhaps to the north end of the building.

16           It would probably be even more valid to put the  
17 exercise room up front because those things seem to attract people  
18 anyway, and if you can't run, watch somebody else run.

19           But the point is that there are some things that I  
20 think could be done to improve the design of the interior, and Ms.  
21 Renshaw's request that more attention be paid to Chinese motif and  
22 art perhaps within the lobby, and the potential of programs within  
23 the building, to entice artists of all types and cultural events  
24 of all types that could be fitted into an activity space within  
25 the building's public areas be sought.

1 I think that's what makes a building a community,  
2 and that's what makes this building enhance or at least contribute  
3 to the potential of redeveloping some of the ethnicity of this  
4 community.

5 Without those things, it is just another apartment  
6 building, regardless of whether it is \$1,300 a month or \$13,000 a  
7 month.

8 MR. HOOD: Mr. Chairman, I would like to call a  
9 point at this point. I would be interested in maybe hearing from  
10 the rest of the -- if we can kind of move on.

11 VICE CHAIRMAN SOCKWELL: All right. Well, we have  
12 to have -- if there is any cross-examination of the Office of  
13 Planning.

14 MS. GIORDANO: No.

15 VICE CHAIRMAN SOCKWELL: And we had an advisory  
16 neighborhood commissioner here, and is that a report from the ANC?

17 MR. PERNELL: That is a report from the --

18 VICE CHAIRMAN SOCKWELL: Mr. Pernel, you can come  
19 forward and identify yourself. If we could make space for him at  
20 the table, it would be appreciated. If you would identify  
21 yourself and your address.

22 MR. PERNELL: Good morning. My name is  
23 Commissioner Daniel Pernel III, and I live at 1132 4th Street,  
24 Northeast. I am here as a single member ANC, and as a member of  
25 the 6-A Zoning Licensed Subcommittee, and I just wanted to add to

1 the record.

2 And excuse me for being a little sluggish today. I  
3 have to have treatment for cancer. My cancer has reappeared now  
4 for the last three years, and so I am not at my best.  
5 Nevertheless, I had an opportunity to meet the Chairman of the  
6 Chinatown Steering Committee of Washington, D.C., Mr. Duane Wong,  
7 and this meeting was on September 11th, 2000, at the Wah Luck  
8 House, one of the first senior citizen buildings for the  
9 Washington area Asians of Chinatown.

10 The Chinatown Steering Committee of Washington,  
11 D.C., is a volunteer advisory group to the District Mayor, serving  
12 the Chinatown community for more than a decade, by planning,  
13 developing, and implementing economic, social, and cultural  
14 activities, programs and projects, to improve the enhanced quality  
15 of the life in Chinatown.

16 During the September 11th meeting, Mr. Eric Colbert  
17 and Ms. Betsy Heimgarten, and their associates, reviewed and  
18 discussed the proposed high-rise 200 unit apartment building in a  
19 DC/C-2-C district at the premise of 770 5th Street, Northwest, in  
20 Square 486, Lot 35, 818, 819, 821, 822, 823, and 827.

21 The square also covers the west end alley close  
22 pursuant to D.C. Law 1318 that discussed the designs of the  
23 proposed building. We heard a status report from Mr. John  
24 Foundersmith concerning the legal seafood signage, and future  
25 projects for the Chinatown design and review.

1                   And finally we heard from Mr. Peter Lu concerning  
2 Chinatown's park. The Chinatown Steering Committee and the U.S.  
3 Park Service has already approved the park design which the  
4 Chinese Consolidated Benevolent Association has undertaken to  
5 build and to benefit the local Chinese community, and the  
6 surrounding community of Ward 6 and 2.

7                   Members of the Steering Committee went into great  
8 discussion concerning what the new proposed project could bring  
9 for the Chinese community and its senior citizen constituents.

10                  Ms. Weingarden interjected by naming amenities that  
11 would be included in the development of the building, and Ms.  
12 Twong Thai felt that Ms. Weingarden's delivery of amenities were  
13 not clear. Those amenities exclude the Chinese community.

14                  After the discussion, I witnessed the Chinese  
15 Steering Committee members make the motion to support the design  
16 and modification of the facade only, and at a later date they  
17 would like to meet with the Chinatown community and developers on  
18 the project to continue dialogue concerning what amenities and  
19 support of the developers could do for the Chinatown community.

20                  But members of this board and zoning commission,  
21 this does not stop here. In 1996, Mr. Wong, Chairman of the  
22 Chinese Steering Committee, and Ms. Linda Lee, Chairman of the  
23 CCBA, which is the Chinese Consolidated Benevolent Association,  
24 came together and started the first Asian police substation in  
25 Chinatown, whereas they raised some \$3,000 or more from members of

1 the businesses and residents of the Chinatown to fund the station  
2 and by necessary office supplies.

3 Crime in Chinatown dropped by more than half. Both  
4 organizations are still continuing to train, educate, and assist  
5 the Chinatown community in economic jobs and living opportunities,  
6 with no help from the city or new development coming into the  
7 Chinatown community and the District.

8 Whereas, the District of Columbia's Comprehensive  
9 Plan or Act of 1984 became D.C. Law 5-76 in April of 1984, this  
10 law states that Chinatown, downtown's only ethnic cultural area,  
11 should be protected and enhanced, and therefore it should receive  
12 special treatment.

13 Its role as a major regional and tourist attraction  
14 should be strengthened by clear linkage to public transit and  
15 adjacent area by developing a strong Chinese image in its building  
16 facade and building improvement, and by attracting new development  
17 to reinforce its economic viability.

18 In 1985, D.C. Law 5-187 further strengthened this  
19 language by designating Chinatown as a special treatment in order  
20 to institute design standards that enhance Chinese treatment or in  
21 order to institute design standards that enhance the China  
22 characters of the area.

23 These standards were developed in 1987 and  
24 published as the Chinese design guidelines. Chinatown residents  
25 say they want redevelopment and development in Chinatown, but not

1 at the cost of losing one of their citizens in the area.

2 They feel that the development proposals coming to  
3 the Chinatown can support Chinatown by sharing the costs of  
4 additional police officers in Chinatown at the substation on 8th  
5 Street, Northwest, and by supporting the Chinatown community with  
6 adequate and inexpensive social recreation for their senior  
7 citizens by supporting the Chinatown community with economic  
8 training and job assistance.

9 And by continuing to have dialogue with the Chinese  
10 Steering Committee members and the surrounding community of  
11 Chinatown. Members of the Board, please pay special attention to  
12 the residents of Chinatown, because no one else is. Thank you.

13 VICE CHAIRMAN SOCKWELL: We appreciate you taking  
14 the time when you are not feeling your best to come down and speak  
15 for the people that you represent.

16 MR. PERNELL: And may I say this, Mr. Chair, that  
17 the 6A Commission is one of the few commissions in the District of  
18 Columbia that has been overburdened with issues of this sort,  
19 especially when it comes to affordable housing and displacing not  
20 only Asian residents in the District, but other ethnic groups and  
21 minorities.

22 We feel that these developers have a  
23 responsibility, and the Asian community has expressed that they do  
24 not want to just accept the facade of a building and dump it in  
25 our community. But they want to touch it and they want to feel

1 it.

2 I have visited China, and Japan, and Korea, in  
3 February with the Unification Church, and this is the kind of  
4 feeling that they are feeling. The Africans have the same  
5 feelings. They want to be able to feel and by feeling this  
6 building, they want to be able to use the facility at low cost, or  
7 no cost at all.

8 The closest facility is the Mount Vernon Place  
9 United Methodist Church, who allows the Chinese community, which  
10 is at 900 Massachusetts Avenue, to come over there. Most of those  
11 seniors at the Wah House are unable to walk that distance,  
12 especially on days when it is raining as it is now, because of  
13 different types of ailments.

14 So we feel that this building, which is just a few  
15 blocks away from the Wah House, will be very beneficial, not for a  
16 site and accommodation of individuals coming to the area, but also  
17 if they were able to use those facilities. Thank you.

18 VICE CHAIRMAN SOCKWELL: Thank you. As this is a  
19 report by a single member, a district commissioner, and not an ANC  
20 report, it is not granted the great weight that the Advisory  
21 Neighborhood Commission report would be.

22 But we listen to and understand, and hopefully the  
23 applicant has paid attention to the issues that you brought forth  
24 in your report, and will be sensitive or more sensitized to the  
25 needs of the community beyond those previously established in his

1 communications with the community to date.

2 MR. PERNELL: Absolutely.

3 VICE CHAIRMAN SOCKWELL: So thank you very much.

4 Are there any board questions of this gentleman?

5 DIRECTOR KRESS: Or cross-examination.

6 MEMBER RENSHAW: No cross-examination.

7 VICE CHAIRMAN SOCKWELL: Thank you very much, Mr.

8 Pernell.

9 MR. PERNELL: Thank you.

10 VICE CHAIRMAN SOCKWELL: And I do think that some  
11 of the things that Mr. Pernell raised have been discussed  
12 previously during this hearing by this board, and that this just  
13 reinforces the idea of connective relationships.

14 All right. At this point, do we have parties or  
15 persons in support who would like to testify? If so, would you  
16 step forward, please.

17 DIRECTOR KRESS: This is an organization, and we  
18 are allowing organizations five minutes, and individuals, three  
19 minutes.

20 VICE CHAIRMAN SOCKWELL: All right. The three of  
21 you represent an organization?

22 DIRECTOR KRESS: You need to identify yourselves  
23 and what they represent.

24 MS. NEUHAUS: Going left to right, Mr. Chairman and  
25 Members of the Board of Zoning Adjustment, ladies and Gentlemen,

1 my name is Joanne Neuhaus, and I am here today as a representative  
2 of the Pennsylvania Quarter Neighborhood Association. The  
3 Pennsylvania Quarter Neighborhood includes the area of downtown  
4 bounded by 5th Street on the east, G Street on the north,  
5 Pennsylvania Avenue on the south, and 10th Street on the west.

6 The Pennsylvania Quarter Neighborhood Association  
7 was created in 1988 by five private developers who were including  
8 residences in their developments in the Pennsylvania Quarter area,  
9 and the Pennsylvania Avenue Development Corporation, more commonly  
10 known as PADC.

11 Since the association's inception when I worked at  
12 PADC as director of project development and special assistant to  
13 the executive director, I have been deeply involved with the  
14 Association's initiatives. In 1993, as the area developed, the  
15 PADC voted to open its membership to all in the neighborhood.

16 Today this growing voluntary association has over a  
17 hundred merchants, restaurants, property owners, and hotels, and  
18 major public institutions, non-profit associations, office  
19 tenants, theaters, art galleries, churches, and residential condo  
20 associations among its members.

21 This is certainly one of the few neighborhood  
22 associations in the city that is inclusive rather than exclusive.

23 I am here today to lend the association's support to the  
24 application of Avalon Bay Communities, Inc., for variance relief  
25 to develop a 203 unit apartment house at 770 - 5th Street,

1 Northwest.

2 This project is consistent with the City's housing  
3 goals for the downtown, and will in fact help to achieve them.  
4 When completed the residents at Avalon Bay's apartment project  
5 will continue to make downtown a more vibrant community.

6 It will enhance Chinatown, which at the moment has  
7 few residents, and its residents are more likely to be people who  
8 will support the arts and retail uses in both Chinatown and Penn-  
9 Porter.

10 I cannot stress how important it is for the City to  
11 complete the work that the PADC began in the downtown by  
12 facilitating and encouraging new housing development in the  
13 downtown like the Avalon Bay project.

14 The recent real estate recession demonstrated how  
15 difficult it can become to achieve a critical mass of housing  
16 development in the downtown, and the effects this has on the  
17 neighborhood's merchants.

18 The recession curtailed development in the  
19 downtown, and several Penn Quarter retailers, which served the  
20 residential community, could not survive without a larger  
21 supporting residential presence. The most significant loss was  
22 the Landsberg market.

23 When the market leased space in the Landsberg, the  
24 owners anticipated continued development of the Pennsylvania  
25 Quarter and surrounding area, including construction of between

1 500 and 1,000 additional residences on sites both within and  
2 adjacent to this area.

3 When new residential development in the area  
4 ceased, the Landsberg Market could not hold on. But we have hoped  
5 that with the development of more housing that the neighborhood  
6 can again attract retailers who will provide goods and services  
7 necessary to maintain a viable residential community.

8 We now have a burgeoning economy. There is a  
9 renewed interest in coming downtown for relaxation and  
10 entertainment, and of course there remains keen interest in living  
11 in the downtown, which unlike most urban neighborhoods, offers its  
12 residents and those who work in the area the opportunity to live  
13 in close proximity to major cultural and entertainment uses, as  
14 well as opportunities to participate in community activities and  
15 events.

16 Let us not miss this window of opportunity to  
17 provide more housing in the downtown. The Avalon Bay project will  
18 add a substantial number of new housing units here. These  
19 residential uses will help support essential retail arts and  
20 entertainment uses that serve the existing residential uses.

21 The project will benefit the Penn Quarter  
22 neighborhood and Chinatown, and help to make Washington the world  
23 class city that it should be now and in the future. Thank you for  
24 giving me this opportunity to present this testimony. If you need  
25 copies, I have them.

1 VICE CHAIRMAN SOCKWELL: Thank you, Ms. Neuhaus.  
2 Are there any questions of Ms. Neuhaus? Any cross? If not, the  
3 next witness, please.

4 MR. WANG: My name is Duane Wang, and I am the  
5 Chairperson for the Chinatown Steering Committee. At the  
6 September 11th meeting, we approved this design only for this  
7 project, because we find out that the developer, that they already  
8 studied the Chinese guidelines, and they are working with our  
9 subcommittee for two times, and have used tremendous efforts to  
10 try and satisfy these Chinese guidelines.

11 So we welcome this new project for design only,  
12 because we don't want you to delay this project. We like this  
13 project, and that's why we approved it. Usually, we don't want to  
14 approve just for the design. We want to approve the whole thing,  
15 including the economic and social, and all those other items.

16 But I believe that today is the first time that I  
17 have come to your board, and I have learned lots of things from  
18 here, from nine o'clock to right now, to 12 o'clock.

19 I find out that we have lots of friends, lots of  
20 good board members here, and it is interesting for the community,  
21 and interesting for the residents, and interesting for the  
22 citizens, and I learned the magic words of connection, and that is  
23 very important.

24 We have got to have the developer have a connection  
25 with the community. So I have already negotiated with the

1 developer and architectural firm, and we want them to know that it  
2 is important to come to Chinatown, and they have got to work with  
3 us together to have the community in their project, and that is  
4 very important.

5 We have got to work together and make a good  
6 partnership, and so I am working on that. I hope that the  
7 dialogue with them will continue, and also I hope that the zoning  
8 members will help us to make sure that we will have finalized this  
9 agreement to submit to you. Thank you very much.

10 VICE CHAIRMAN SOCKWELL: Thank you very much. Any  
11 questions by the board? If not, we are glad that you have had a  
12 good relationship with the developer to this point, and hopefully  
13 it will be continuing. Any cross-examination of the gentleman?  
14 If not, thank you very much, Mr. Wang.

15 MR. WANG: Thank you.

16 MR. LYNCH: Good afternoon, my name is Terry Lynch,  
17 and I am the executive director of the Downtown Cluster of  
18 Segregations. Just some very brief points as to why I have  
19 submitted testimony in support.

20 First and foremost, this project sets two very  
21 important key precedents. As Mr. Hood and Ms. Kress certainly  
22 know, we have heard time and again from commercial office  
23 development saying that you cannot do a privately financed matter  
24 of right residential development in the east end and the DDD.

25 This sets a standard that, yes, you can. You have

1 a well recognized residential developer who is going to come in,  
2 and who is not buying out of the housing requirement, and is  
3 indeed exceeding the housing requirement to do a privately  
4 financed matter of right residential development in the DDD.

5 There is a tremendous precedent that is being set,  
6 number one, which we hope to use time and again in the future with  
7 other developers in the community.

8 Number Two, the precedent is being set that a new  
9 residential development will be situated in immediate close  
10 proximity to special needs housing. Directly across the street, we  
11 have Mount Carmel Shelter, which provides -- is a homeless  
12 facility for many women who are in recovery from substance abuse  
13 and mental illness.

14 On the block immediately to the north we have the  
15 Gospel Mission, which is a several hundred bed unit facility which  
16 is dealing primarily with the male population, and also many of  
17 whom are in recovery from mental health and substance abuse  
18 addiction.

19 So, yes, we can have new housing developments in  
20 the immediate proximity to special needs housing. So I think we  
21 have two tremendous precedents being set here that we look to use  
22 with other developers as they come forward with various projects.

23  
24 One issue that was not touched on, and I hope OP or  
25 OB may provide some additional information on, is that you are

1 basically taking a back of the house property, i.e., in the back  
2 of the MCI Center. It is a surface parking lot. We are  
3 dramatically increasing its revenue stream to the District.

4 You are bringing in 200 residential units, and you  
5 are dramatically increasing property tax returns to the District,  
6 and income tax returns to the District, and sales tax returns to  
7 the District, as well as hopefully construction and employment  
8 opportunities, and retail opportunities for District residents.

9 I think the economic improvement from this property  
10 is really significant, and I was hoping that might get quantified,  
11 both in terms of job share and new tax revenues that are going to  
12 be generated.

13 Lastly, I want to comment that I will certainly  
14 work to the extent that I can with the development community and  
15 this particular developer to make sure that they market as  
16 aggressively as possible to the members of the Chinese community  
17 church, as well as to the other 35 member congregations of the  
18 Downtown Cluster of Congregations.

19 That is a ready and willing audience for new  
20 marketing downtown, and we will try and work with them  
21 significantly to make sure that they do market to both the Chinese  
22 community and other member congregations.

23 You have a letter from the pastor of St. Mary's  
24 Church in support of the project, and I know that Bill Tang, who  
25 is the pastor of the Chinese Community Church, who will be very

1 receptive to trying to work with this developer. So those are  
2 just the points that I wanted to make today.

3 VICE CHAIRMAN SOCKWELL: Thank you, Mr. Lynch.  
4 Thank you very much for coming. Any questions by the board? Is  
5 there cross-examination by the applicant? Thank you.

6 Before we take closing remarks by the applicant,  
7 just one question.

8 DIRECTOR KRESS: I'm sorry, but you didn't ask for  
9 anyone in opposition. I don't know if there is.

10 VICE CHAIRMAN SOCKWELL: Well, actually I did at  
11 the beginning. There were no opponents.

12 DIRECTOR KRESS: There are no opponents? I'm  
13 sorry. Thank you.

14 VICE CHAIRMAN SOCKWELL: What is the mix of units?

15 MR. BIRENBAUM: The unit mix includes about five  
16 percent efficiencies or studio apartments, and it is about 45 or  
17 50 percent one bedrooms, and about 40 percent two bedrooms, and  
18 then there is a few three bedrooms. Maybe 4 or 5 of those. So  
19 hopefully that adds up to close to a hundred percent.

20 But it is a variety of apartments. The average  
21 unit size is about 900 square feet, which is on the large side for  
22 a high-rise.

23 VICE CHAIRMAN SOCKWELL: Yes, it is. Okay.  
24 Because I wondered about that. I have one other question, which  
25 maybe you can answer and maybe not. The displacement of cars from

1 the existing lot will be approximately how many vehicles? Has  
2 anyone looked at that?

3 I mean, realizing that the apartments are being  
4 provided with a level of spaces based on probably code minimums  
5 and maybe a few more.

6 MR. COLBERT: We are going to have three levels of  
7 parking, and I think on the lot now they use valet, but it also  
8 includes the alley, which is completely unused. So I think we are  
9 probably at least doubling the amount of parking that will be  
10 available on the site.

11 VICE CHAIRMAN SOCKWELL: But instead of it being  
12 commuter parking, it will be targeted to this building, and will  
13 have some impact on MCI parking for evening events, which would  
14 then have to be absorbed elsewhere in the neighborhood, where of  
15 course there are new buildings being constructed.

16 So it may all wash out quite nicely, but I just  
17 wanted to ask the question to see if you had any quantification on  
18 that. OP didn't make any statements about traffic issues. So I  
19 assume that Ms. McCarthy didn't have any.

20 MS. MCCARTHY: As to traffic issues, no, and  
21 actually there are still a number of parking lots on the western  
22 half of the site which for the moment, at least, will still be in  
23 operation next to the Rock and to the Arena Cafe there, and right  
24 next to the hotel there, there are still surface parking lots.  
25 This is only on the eastern half of the site.

1 VICE CHAIRMAN SOCKWELL: That's true, but it is  
2 replacing spaces that would be transient spaces with spaces that  
3 will not be transient spaces.

4 MS. MCCARTHY: That's true. There is also under  
5 construction in the immediate vicinity the National Academy of  
6 Sciences, which is planning an enormous increase in parking, which  
7 they have committed to become available in the evening for people  
8 who are -- they are actually thinking they will target it not at  
9 the MCI Center, but at the cultural institutions, like the  
10 Shakespeare and the Willie Namath, and other restaurants and  
11 activities in that section of downtown, because the MCI Center, at  
12 least at this point in time, is being well served by the parking  
13 around there.

14 And there will be a substantial increase in parking  
15 spaces in the Gallery Place project. There are several hundred  
16 spaces that will be there that will be serving the retail in  
17 Gallery Place, and commuters during the day time, and the  
18 residential in Gallery Place, and then the MCI visitors.

19 So we will net, and we will see a several hundred  
20 space increase in that area, only some of which is dedicated for  
21 day time use, and some of which will be available for commuters,  
22 in addition to a lot of it being available for evening use.

23 VICE CHAIRMAN SOCKWELL: What is the schedule for  
24 Gallery Place to come on line? Do you know?

25 MS. MCCARTHY: My understanding is that there has

1 been a snag recently, and I don't know all the details of that.

2 They were planning for something within two years.

3 VICE CHAIRMAN SOCKWELL: So depending upon your  
4 schedule, you guys might all be coming out of the ground at the  
5 same time.

6 MR. BIRENBAUM: That's possible. We certainly look  
7 forward to the Gallery Place project moving forward, and we are  
8 excited about the impact that it is going to have on the  
9 neighborhood.

10 VICE CHAIRMAN SOCKWELL: Okay. All right. Then I  
11 would -- if there are no more questions by the board members, and  
12 no cross, we will have closing remarks by the applicant. Thank  
13 you.

14 MS. GIORDANO: I am just submitting for the record  
15 -- and Mr. Pernell is not here, and so I can't share a copy of  
16 this with him, but just a chronology of all of our attempts to  
17 meet with the ANC representatives.

18 Unfortunately, the ANC is lacking a single district  
19 representative for this particular area, and a chairperson, too,  
20 also. But we made a great deal or put forth a great deal of  
21 effort to try and get an ANC or some ANC input into this project,  
22 and unfortunately we are just unable to because of a number of  
23 circumstances, including two meetings without quorums, et cetera.

24 And so just to make the point that it was certainly  
25 not a lack of effort on our part that led us to the circumstance

1 of no ANC report on this project. And in closing I just wanted to  
2 say that I think that we have clearly met the legal requirements  
3 for the variance relief requested.

4 Certainly, it is clear that this granting of these  
5 variances is going to do no public harm. In fact, it is going to  
6 do a great deal of public good in getting this project off the  
7 ground, and helping the city to meet their housing goals for this  
8 area. And as Ms. McCarthy indicated, currently the City is behind  
9 on meeting those goals.

10 And this project will provide 203 units which are  
11 needed to take us that much closer to the goal, and in a location  
12 where the City needs this concentration of housing to bridge the  
13 gap between the Penn Quarter area and the Mount Vernon triangle  
14 area.

15 So we think that we are uniquely located to make  
16 that contribution to the downtown, and the project has been  
17 configured to do that because of the unused density from the Red  
18 Roof Inn, and the developer's ability to go in and basically self-  
19 finance this kind of large residential project without a combined  
20 lot partner in a commercial project, and we are able to proceed at  
21 this time.

22 And the intention is to proceed as quickly as  
23 possible. In fact, you saw the subdivision plat, and we got that  
24 accomplished so that we can proceed with our permit application as  
25 soon as possible. We are in a great deal of hurry actually to get

1 going on this.

2 We have heard what the Chinese community has  
3 indicated, in terms of making the project more user friendly, the  
4 Chinese community. We had some ideas along those lines, and we  
5 met actually with Mr. Wang last Friday about making a contribution  
6 to the park in the Chinatown area that Mr. Pernell mentioned.

7 And that is something that is being taken up and  
8 considered by Avalon Bay at this time. So there will be further  
9 dialogue with the Chinese community, and there will be more  
10 connection between the Chinese community and this project.

11 I don't think that you will be disappointed in  
12 that, and we ask the board for their support. We would like  
13 ideally a bench decision if the board is comfortable in making  
14 that decision today, because as I indicated, we are ready to get -  
15 - we have started working drawings, and we are going to be  
16 proceeding very quickly with a permit application for the project.

17 Thank you.

18 VICE CHAIRMAN SOCKWELL: Thank you. Well, I think  
19 that you have produced certainly a meaningful project for an  
20 economic boost within the Chinatown community. I believe that its  
21 features have been modified to embrace some of the Chinese history  
22 and culture, and that the streetscape has been prepared to embrace  
23 some of the Chinese cultural elements.

24 I believe that it is a market rate building for  
25 market rate tenants. I believe that it will enhance the

1 neighborhood. Anything that is built in that block bordered by G  
2 and H, 5th and 6th, will be an enhancement to what has been a  
3 blighted area for many years.

4 I believe that you have seen and heard the outcry  
5 of the Chinese community that says we want to be included in more  
6 than just the visual imagery of a developed Chinatown.

7 And it is to the developer's interests in having  
8 good will, and seeing the cultural heritage of Chinatown improved,  
9 and preserved, that the things that have been done to date have  
10 taken place.

11 And the fact that a dialogue has been established  
12 and that can be continued, and that witnesses have come forth to  
13 state that that is something that they will work toward, I believe  
14 the developer understands his charge.

15 And that within the limits of economics, good  
16 planning, and the need to proceed, he will do what is necessary to  
17 create a long lasting and perhaps an expandable bond between the  
18 incoming development, and the existing Chinatown residents, and  
19 make that infrastructure something that we will be proud of.

20 It will never be San Francisco, but it does not have to be  
21 tomorrow what it is today.

22 MR. HOOD: Mr. Chairman, with that I will second  
23 your motion.

24 VICE CHAIRMAN SOCKWELL: Thank you. That was a  
25 motion to accept, and I think we can go with a bench decision on

1 this. Would you submit findings of fact to us, or do we --

2 MEMBER RENSHAW: Do we vote?

3 MS. GIORDANO: Yes, it will be a summary order.

4 VICE CHAIRMAN SOCKWELL: A summary order.

5 DIRECTOR KRESS: We don't need to find if you do a  
6 bench decision, and a summary order, we don't need the findings of  
7 fact, and --

8 VICE CHAIRMAN SOCKWELL: I don't think there has  
9 been any opposition. I think if anything that there is concern,  
10 and that concern is for the development of Chinatown and for the  
11 continued dialogue between the community and the development  
12 community, and between the existing Chinese community and the  
13 development community.

14 So I move that we grant the variances. Any  
15 discussion? We have a second. All in favor?

16 (Ayes.)

17 VICE CHAIRMAN SOCKWELL: Opposed? Abstentions?  
18 Thank you very much for your time. I thank all of you for your  
19 time.

20 MS. GIORDANO: Thank you.

21 MS. BAILEY: The staff will record the vote as four  
22 to zero, motion made by Mr. Sockwell, and seconded by Mr. Hood,  
23 Mr. Moulden, and Mrs. Renshaw, to approve the application with a  
24 summary order.

25 VICE CHAIRMAN SOCKWELL: And special thanks to Mr.

1 Pernell, who is now here now, to come out for this project, and to  
2 voice the concerns of the community, with health issues that were  
3 not overriding, but which were certainly significant. We really  
4 appreciate that.

5 We are going to take a break of five minutes to  
6 discuss the afternoon schedule.

7 (Whereupon, the hearing recessed at 1:35 p.m.)  
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1 A-F-T-E-R-N-O-O-N S-E-S-S-I-O-N

2 (2:05 p.m.)

3 VICE CHAIRMAN SOCKWELL: We will now go with the  
4 application of C. Lillette Campbell.

5 MS. BAILEY: Thank you, Mr. Chairman. Good  
6 afternoon. The last case of this morning is 16598, of the  
7 application of C. Lillette Campbell, pursuant to 11 DCMR 3104.1,  
8 for a special exception under Section 206 for the construction of  
9 an elementary school for 100 students and 7 staff, the building  
10 will consist of modular classrooms, adjoining an existing  
11 residence, and a studio garage on an alley with off-street parking  
12 in an R-2 District at premises 907, 909, and 911 Quackenbos  
13 Street, Northwest, and that is Square 2982, Lots 808, 809, 810,  
14 139, 106, 107, 110, 111, and 112.

15 All those wishing to testify and take the oath,  
16 would you please stand. Anyone else wishing to take the oath,  
17 please stand, and raise your right hand.

18 (All witnesses were sworn.)

19 VICE CHAIRMAN SOCKWELL: Let me ask if there is  
20 anyone in opposition to this application?

21 (No audible response.)

22 VICE CHAIRMAN SOCKWELL: Is there anyone here in  
23 support of the application other than the applicant? Thank you.

24 MS. BAILEY: Mr. Chairman, and Members of the  
25 Board, the staff has reviewed this package, and the application

1 before you. This is a self-certified project, and we have a  
2 report from ANC-4B. All of the postings were timely filed, and  
3 the case is ready for you to hear.

4 VICE CHAIRMAN SOCKWELL: You are Mrs. Campbell?

5 MS. CAMPBELL: I am.

6 VICE CHAIRMAN SOCKWELL: Would you identify  
7 yourself and you may proceed. And give me your address or give us  
8 your address for the record.

9 MS. CAMPBELL: Okay. My name is Lillette Campbell,  
10 and I am the Director of Bridges Academy, at 907 Quackenbos  
11 Street, Northwest, Washington, D.C. 20011.

12 VICE CHAIRMAN SOCKWELL: Please proceed.

13 MS. CAMPBELL: Good afternoon, Mr. Chair, and  
14 Members of the Board. The Bridges Academy is a small independent  
15 school that formerly existed as the Academic Enrichment Center.  
16 For the past 21 or more years, we have quietly produced some of  
17 tomorrow's leaders in our facility.

18 We have had students, and staff, and family, from  
19 more than 40 countries, and most recently this past year, we added  
20 Brazil and Mongolia to our heritage stew, so to speak. Our  
21 students have gone on to attend not only local universities and  
22 colleges, but we have had students Vanderbilt, Florida A&M,  
23 Moorhouse, and so on.

24 Some of our graduates are doing wonderful things  
25 now. One is an engineer with General Motors designing

1 locomotives, and we have former students who are working in the  
2 areas of social work and so forth.

3 We have had the opportunity to move to other  
4 locations, but I am a firm believer in Washington, D.C., and Ward  
5 4, in the Brightwood Community and Georgia Avenue in particular,  
6 and we would like to stay right in that area.

7 Our students attend classes of 10 to 15, and we  
8 have a wonderful staff as I said from many, many places. Our  
9 design or our plan for this building is in conformity with the  
10 rest of the neighborhood. It will be brick and siding, just as  
11 most of the homes are in this area.

12 The cart sort of came before the horse so to speak,  
13 in that these modular buildings came available and we purchased  
14 them knowing that the lot was formerly used by Safeway as parking,  
15 but not knowing that Safeway's special conditions would not pass  
16 on to us.

17 So here we are before you to have your  
18 consideration of that petition. I brought with me some  
19 information packets about the school so that you can know us  
20 better.

21 And some life-sized conceptual drawings of what our  
22 plan is. This is the existing plat of the Lots 808, 809, and 810  
23 on Quackenbos Street, Northwest. These lots will be subdivided,  
24 and we have made the application, and we will proceed with that  
25 upon your approval adjoining those three lots.

1           This shows all of the lots involved and the campus  
2 effect that it will have. Our main building on Georgia Avenue,  
3 the location of the lots of the existing structure, and the  
4 modular buildings that will be attached to it.

5           These are conceptual drawings done by the architect  
6 of the proposed classroom structure, and the black area is the  
7 existing structure, and the modules would be attached three at the  
8 side and two at the back, with a basketball court in the open  
9 area, and a fenced play yard. There will be off-street parking as  
10 we have indicated.

11           These are the elevations, side and rear, of the  
12 properties; north, south, northeast and west elevations. And this  
13 last one is my drawing, and not the architects, of what the floor  
14 plan would be for those buildings, with the classrooms, the unit  
15 here, and the classrooms there.

16           Our plan would be to have quiet classes in the  
17 existing structure, and computer class, art class, sewing, and  
18 things of that nature, a language lab, and the others in the  
19 modular units would be normal classrooms for English, Spanish,  
20 science, and so forth.

21           We have been in the area as I said for more than 20  
22 years. We have not had any incidents to speak of. On one  
23 occasion I do know that a neighboring business came to me upset  
24 because every day my students entered his store and just gave him  
25 a hard time, and just disrupting things.

1           But this was at 3:30 every day, and our school does  
2 not dismiss until 4:00. Not only that, our students wear  
3 uniforms, and these students were not in uniforms, and so they  
4 were clearly not our students.

5           We cleared that up and we have had a very good  
6 relationship with him ever since. Other than that, I think we  
7 have contributed to the neighborhood. All of our parents do not  
8 live in the immediate area, but they patronize the area.

9           They go to the businesses and they use the dry-  
10 cleaners, and go to the stores and shops along Georgia Avenue. I  
11 think that they contribute as much to the neighborhood as those  
12 who live there and as the residents.

13           We are looking forward to this, and I don't think  
14 of it as a real expansion. It is a physical expansion, but we are  
15 not looking to dramatically increase our student population. We  
16 just want them to have more space to do what they are doing so  
17 very well. And in a nutshell that's it.

18           MEMBER RENSHAW: Mr. Chairman, may I ask some  
19 questions at this point?

20           VICE CHAIRMAN SOCKWELL: Yes, you may.

21           MEMBER RENSHAW: Mrs. Campbell, just a few  
22 incidental questions. What are the ages of your 100 students? Do  
23 you have 100 students there now?

24           MS. CAMPBELL: Presently, we have about 80 students  
25 in the age category that would be affected, and that is

1 kindergarten to 8th grade. And we have our preschool students at  
2 Emory Church, which is across Georgia Avenue, and an infant center  
3 two doors away. It is just the older students that would be in  
4 this particular building.

5 MEMBER RENSHAW: All right. And what are your  
6 hours of operation?

7 MS. CAMPBELL: The school day runs from 8:45 to  
8 4:00 p.m. We do have before and after school care that would be  
9 in the main building on Georgia Avenue, and that would start at  
10 6:30 in the morning, and end at 6:30 in the evening.

11 MEMBER RENSHAW: All right. And are these students  
12 dropped off at the school?

13 MS. CAMPBELL: Yes, they are.

14 MEMBER RENSHAW: How do they get to the school?

15 MS. CAMPBELL: Most of them are dropped off. Some  
16 take the bus, and some walk.

17 MEMBER RENSHAW: And where are they dropped off?

18 MS. CAMPBELL: They are dropped off at the main  
19 building at 6119 Georgia Avenue.

20 MEMBER RENSHAW: And do you have an indent for cars  
21 to pull in, or do they just stop at the street? How do you manage  
22 that?

23 MS. CAMPBELL: It is a metered block on Georgia,  
24 and they usually just pull in. There are only about 4 or 5  
25 businesses on that block and so it is not usually a problem to

1 park, bring your child in, and go back out.

2 We also have parking in the back, and we have 9 or  
3 12 parking spaces off-street on the alley already. We would be  
4 adding the additional spaces with this approval. We also already  
5 have two fenced play yards with equipment.

6 MEMBER RENSHAW: All right. Thank you.

7 MS. CAMPBELL: Okay. One other thing that we have  
8 done to facilitate this is that the house next door was once --  
9 and probably still is -- a number of teenage boys there, and  
10 perhaps they have grown up by now because things have gotten  
11 quieter.

12 And the house that we bought was filled with  
13 teenage boys in foster care, and so I think we have contributed a  
14 lot to the neighborhood by purchasing that property. We also gave  
15 them stockade fencing to separate the two.

16 MEMBER RENSHAW: There was a comment in this  
17 material that we had about 905 Quackenbos Street, and directly  
18 adjacent to you. And has that family signed on? I couldn't find  
19 that address.

20 MS. CAMPBELL: I did not -- I have not been able to  
21 catch up with this person. She does work nights and does not  
22 answer her door during the day. I have spoken to her brother, who  
23 is a co-owner, and he has not objected, but wanted his sister to  
24 sign. We just have not been able to see her.

25 MEMBER RENSHAW: And you talked about the concern

1 that had been expressed by the architect, and which was to be  
2 eliminated with the construction of a privacy fence between the  
3 two properties.

4 MS. CAMPBELL: We have done that already. That is  
5 the one that we were talking about, and we gave them -- there was  
6 initially a stockade privacy fence between 907 and the Safeway  
7 lots that we purchased. We took the fence up and gave it to them,  
8 and they have installed it between 907 and 905.

9 MEMBER RENSHAW: All right. Thank you.

10 VICE CHAIRMAN SOCKWELL: Mr. Hood.

11 MR. HOOD: I have just a few questions. Mrs.  
12 Campbell, presently you say you are at 6719 Georgia Avenue?

13 MS. CAMPBELL: That's correct.

14 MR. HOOD: On the new site, what is on the other  
15 side of both public alleys?

16 MS. CAMPBELL: Okay. There are two public alleys.  
17 One is where there is a garage, and then there are empty lots,  
18 and on the other side there are several garages, and one or two  
19 empty lots. I don't know -- I have not been able to contact the  
20 owners. I have sent letters and so forth.

21 I do know that one of the owners of the first set  
22 of garages has passed away and so has his wife. It is still  
23 listed in their names by the District. We do see someone there  
24 every now and then, but she is not the owner of record.

25 MR. HOOD: Okay. Upon the children entering into

1 the facility, which way will they be entering?

2 MS. CAMPBELL: They will all still enter Georgia  
3 Avenue, because that is the meeting point. That is the main  
4 building, and they will meet there, and at class time they will go  
5 to the other building. They would cross the main alley, the  
6 Georgia Avenue alley, to that facility.

7 MR. HOOD: So they would have to actually cross  
8 that alley?

9 MS. CAMPBELL: They don't have to, but they can.  
10 That's the way that anyone who comes before school care would go.  
11 We would escort them that way. Any who are dropped at the  
12 building, there will be a place for them to drop off, and that  
13 would be on the Quackenbos Street side.

14 MR. HOOD: And right now are there cars parked --  
15 this is a residential neighborhood and are there cars parked on  
16 Quackenbos?

17 MS. CAMPBELL: The cars that are parked on  
18 Quackenbos primarily belong to the police officers who live in  
19 Maryland. We are right across the street from the 4th District.  
20 There are only four houses on that block. And one of them is the  
21 one that we own.

22 MR. HOOD: Okay.

23 MEMBER RENSHAW: Mrs. Campbell, could I see your  
24 large rendering of what the school is going to look like?

25 MS. CAMPBELL: Sure.

1 MS. BAILEY: Ms. Campbell, is a copy of that in the  
2 file?

3 MS. CAMPBELL: Yes.

4 VICE CHAIRMAN SOCKWELL: Yes.

5 MR. HOOD: Yes, it is in the file. Mr. Chairman, I  
6 may have some more questions, but right now it appears to me that  
7 she has overwhelmingly community support. So I will just wait to  
8 see how the discussion goes.

9 MS. CAMPBELL: Do you need the originals for that?  
10 I have the signatures from the citizens, and the businesses in  
11 the areas.

12 VICE CHAIRMAN SOCKWELL: No, that's fine.

13 MR. HOOD: I would just say this, that you have  
14 been around long enough and you see different things.

15 MS. CAMPBELL: Oh, yes, quite a lot of different  
16 things.

17 MR. HOOD: And this is definitely different for me.

18 MS. CAMPBELL: Okay.

19 VICE CHAIRMAN SOCKWELL: I think, Ms. Campbell,  
20 that the questions that I have are with regard to the buildings  
21 that you plan. Have you considered your -- because you have  
22 purchased the buildings already, and you know that they will fit  
23 your site once you prepare it.

24 MS. CAMPBELL: Yes.

25 VICE CHAIRMAN SOCKWELL: But have you considered

1 the zoning impacts of rear yards and side yards, and things like  
2 that? You have an architect who is assisting you, and has he gone  
3 through those exercises with you?

4 MS. CAMPBELL: Yes, he has. All of those are  
5 indicated in his conceptual drawings, the space requirements for  
6 rear and side yards, and front as well.

7 VICE CHAIRMAN SOCKWELL: And you know that there  
8 maybe some significant building permit related concerns for using  
9 that type of building?

10 MS. CAMPBELL: Yes.

11 VICE CHAIRMAN SOCKWELL: And you are prepared to go  
12 forth?

13 MS. CAMPBELL: I am.

14 VICE CHAIRMAN SOCKWELL: Well --

15 MS. CAMPBELL: My understanding is that while  
16 modular buildings can be considered temporary in the district,  
17 they are considered just as a permanent building would be, and  
18 they have to be constructed that way.

19 VICE CHAIRMAN SOCKWELL: It is generally the safety  
20 concerns, and perhaps some health related concerns, where one  
21 might have to exit children from a structure to get them to a  
22 restroom that is in another part of the structure.

23 MS. CAMPBELL: There are restrooms in the modules  
24 as well. We do know that we will have to go into the ground to  
25 tap into the sewer, because the existing residential sewer lines

1 may not be adequate.

2 VICE CHAIRMAN SOCKWELL: Yes, but what I am  
3 thinking is that the way you are sketching it, I take your sketch  
4 to be a representation of things, as opposed to the real hard  
5 detail.

6 And that is that your children are going to have to  
7 in one drawing step outside of the building in order to step into  
8 the classroom area where the restrooms are located, and that might  
9 present some problems from the standpoint of the City's codes.

10 MS. CAMPBELL: Yes and a no, because there are  
11 lavatories in the modules themselves, and so if they are in a  
12 class in that area, then --

13 VICE CHAIRMAN SOCKWELL: I don't know whether the  
14 dividers between classroom areas were demountable dividers, or --

15 MS. CAMPBELL: No, they are to be covered walkways.  
16 My understanding is that that was the only way it could be  
17 considered one structure, is if they were covered walkways.

18 VICE CHAIRMAN SOCKWELL: No, that's not what I  
19 mean. I mean within the building. You have one that shows three  
20 classrooms, and the restrooms are shown at one end.

21 MS. CAMPBELL: Okay.

22 VICE CHAIRMAN SOCKWELL: You show doors to the  
23 outside from each classroom, but only one classroom has the  
24 restrooms in it, and it appeared that the students would have to  
25 go outside of Classrooms A and B, and into Classroom C, after

1 leaving the building itself in order to get to the restrooms.

2 MS. CAMPBELL: Okay. The restrooms will not be in  
3 a classroom as such. They will have their own area that would be  
4 accessible. Anyone would have to go out of one area and into  
5 another.

6 VICE CHAIRMAN SOCKWELL: I didn't mean out of one  
7 area. I mean outside. That's the way it is sketched. I am an  
8 architect, and I am looking at it as I see it. Only that I am  
9 just explaining to you that I am assuming that you did not look at  
10 that the way that I would, which is to say that these doors are  
11 here, and there are no doors there.

12 If I have to get to the restroom, I have to go  
13 outside and then back into the building, and that was through your  
14 sketch of the modular building that is behind the existing house.

15 You did a floor plan which I looked at, and that's  
16 this one, which I sort of colored in, but it showed -- and again  
17 this is a building code related issue, and not a zoning code  
18 related issue, per se.

19 But you show three doors exiting to the common area  
20 outside, and then you show the multi-purpose room with the  
21 lavatories in it. But if I am in classroom number six, and if I  
22 wanted to get to the multi-purpose room, can I do that without  
23 exiting the structure? Does that mean that I have to put my coat  
24 on and go outdoors?

25 MS. CAMPBELL: Yes, you would have to go out on to

1 the walkway.

2 VICE CHAIRMAN SOCKWELL: Okay. And that might  
3 present a problem from the standpoint of code compliance.

4 MS. CAMPBELL: Okay.

5 VICE CHAIRMAN SOCKWELL: Because you are really not  
6 supposed to -- I mean, in the middle of a blizzard, you are going  
7 to send your students out the door and down the hall outside to go  
8 back in to go to the restroom, and then back out the door, and up  
9 the hall.

10 You may want to work that out, but like I said, I  
11 am just suggesting that there are some issues that you will be  
12 dealing with, and that you should be aware to get the best counsel  
13 from DCRA's staff that you can.

14 MS. CAMPBELL: Thank you.

15 MEMBER RENSHAW: These covered walkways, are they  
16 over the public alley?

17 MS. CAMPBELL: No, they are not.

18 MEMBER RENSHAW: Whereabouts are they?

19 MS. CAMPBELL: They are all within the property.

20 MEMBER RENSHAW: Within the property?

21 MS. CAMPBELL: Yes.

22 VICE CHAIRMAN SOCKWELL: And from what I can see,  
23 you have one person who will testify in support?

24 MS. CAMPBELL: Yes.

25 VICE CHAIRMAN SOCKWELL: And do we have any

1 reports, ANC reports?

2 MR. HOOD: Mr. Chairman, we have one report.

3 VICE CHAIRMAN SOCKWELL: Yes, one report from ANC-  
4 4B. I didn't have page two of that.

5 MR. HOOD: I didn't either. But it sounds as  
6 though they were in support.

7 MS. CAMPBELL: They were.

8 VICE CHAIRMAN SOCKWELL: At least the last word on  
9 the last line is will rather than won't.

10 MS. CAMPBELL: It was a letter in support.

11 MEMBER RENSHAW: Ms. Campbell, do you know who  
12 signed this letter from the ANC, dated December 4th?

13 MS. CAMPBELL: Vannie Taylor was our ANC  
14 representative at that time.

15 MEMBER RENSHAW: Is it her --

16 MS. CAMPBELL: It is a man.

17 VICE CHAIRMAN SOCKWELL: Did they vote?

18 MS. CAMPBELL: Yes, they did. Those who were  
19 there. They said that they could not -- there was a special  
20 something that the ANC would get from zoning.

21 What I had requested was a letter in support of the  
22 effort to go with the package to zoning, and they had no objection  
23 to that. They voted, and I was on the agenda, and met with the  
24 public.

25 MR. HOOD: I believe they voted, Mr. Chairman, 6 to

1 10.

2 VICE CHAIRMAN SOCKWELL: Well, what it says on the  
3 front of this is -- well, I am having trouble locating the fact  
4 that it says that they actually voted. It says after proper and  
5 adequate notice to all whom might be affected, this commission  
6 consisting --

7 MEMBER RENSHAW: Does the office have in the main  
8 file the second page of this document, dated December 4, 1998.

9 MS. CAMPBELL: I have the original with me.

10 MEMBER RENSHAW: Oh, you do?

11 (Brief Pause.)

12 MR. HOOD: The letter is still in support, Mr.  
13 Chair.

14 MEMBER RENSHAW: We are getting copies made of the  
15 full 4-B letter.

16 VICE CHAIRMAN SOCKWELL: Generally the letter  
17 format would state that a vote was taken of the quorum, and that  
18 the vote was unanimous, or 4 to 3, or 6 to 5, or whatever. And  
19 this letter comes just a little short of saying that.

20 MS. CAMPBELL: I think that's because there were a  
21 number of issues in 4-B at the time, with representatives not  
22 showing. There was a lot of back and forth with certain community  
23 members about whether they were able to vote, and whether they  
24 should vote, and who was in charge. It was really ugly for a  
25 while there in 4-B.

1 VICE CHAIRMAN SOCKWELL: Well, if we could get a  
2 confirmation from 4-B, just a short note from the Chair that a  
3 vote was taken.

4 MS. CAMPBELL: Okay.

5 VICE CHAIRMAN SOCKWELL: That would be sufficient  
6 for us to validate this effectively.

7 MS. CAMPBELL: Okay.

8 VICE CHAIRMAN SOCKWELL: But because it does not  
9 state that a vote was taken, it is not the board's privilege to  
10 assume that a vote was taken.

11 DIRECTOR KRESS: And if there was a quorum as you  
12 said earlier.

13 VICE CHAIRMAN SOCKWELL: Yes, they did state that  
14 there was a quorum of members in the first paragraph, and that  
15 this Commission, consisting of 10 commissioners, of which six were  
16 present, constituting a quorum, made inquiry into the referenced  
17 matter. But it doesn't say specifically that a vote was taken.

18 MR. HOOD: Well, let me just say, Mr. Chair, that  
19 they have four vacancies, and so six would be all that they would  
20 have.

21 VICE CHAIRMAN SOCKWELL: Right. But this doesn't  
22 just say that they voted.

23 MR. HOOD: Right. It doesn't say anything about a  
24 vote, and so we need to be assured that that is what took place.

25 MS. CAMPBELL: All right. And since Mr. Clair

1 (phonetic) is no longer on that commission, does this mean that I  
2 have to go before the new one?

3 VICE CHAIRMAN SOCKWELL: No, all you would have to  
4 do is get someone to go to the minutes of the meetings where votes  
5 would have been recorded in the commission's records, and write a  
6 note stating that on Thursday, June -- well, this is actually June  
7 11th of '98.

8 MS. CAMPBELL: Right.

9 VICE CHAIRMAN SOCKWELL: So in 1998, they said it  
10 was okay.

11 MS. CAMPBELL: Right. It was December before we  
12 got the letter. It was a very, very difficult time in 4-B.

13 VICE CHAIRMAN SOCKWELL: So hopefully they have a  
14 record. But it would make it easier for us to give the ANC the  
15 great weight to which it is --

16 MEMBER RENSHAW: You could write a letter to the  
17 ANC-4B just requesting a copy of the minutes of this meeting and  
18 see what it says.

19 MR. HOOD: Well, two years ago, but I want to make  
20 sure that this board is being fair. A lot of times ANCs are not -  
21 - and I am sure that Ms. Renshaw would agree, that they are not  
22 paid staff, and they don't get paid, and they are volunteers, and  
23 we run into all of that.

24 So I hope that this board will take into  
25 consideration that she has a lot of people who signed a petition,

1 and that if it comes back, and if she is not able to obtain those  
2 records or those minutes, because a lot of times those things are  
3 not easily accessible.

4 VICE CHAIRMAN SOCKWELL: Well, for the record, we  
5 would not be able to give the ANC great weight unless we had some  
6 assurance that the ANC did actually cast a vote.

7 However, there is no other opposition. There is no  
8 opposition I should say to the application present here, and so  
9 the necessity of great weight isn't as much of an important factor  
10 as it would be otherwise.

11 So this is not a contested case. Do we have any  
12 reports other than this ANC letter?

13 MS. BAILEY: No, sir, we do not.

14 VICE CHAIRMAN SOCKWELL: All right. The ANC  
15 letter, for the record, appears to be in full support of the  
16 applicant, and barring any other reports, then I would suggest  
17 that we take parties or persons in support. And you do have a  
18 person in support?

19 MS. CAMPBELL: I do.

20 VICE CHAIRMAN SOCKWELL: Then she may come forward  
21 and identify herself, and present to the board.

22 MS. PEARSON: Good afternoon. I am Zavita Pearson.  
23 I have had two students --

24 VICE CHAIRMAN SOCKWELL: Your address, please?

25 MS. PEARSON: I'm sorry. It is 4907 Georgia

1 Avenue, Northwest, and that is my business address.

2 DIRECTOR KRESS: Are you here as an individual or  
3 are you here representing an organization?

4 MS. PEARSON: I am actually here as an individual.  
5 Would you like my home address, too?

6 DIRECTOR KRESS: No, that's all right. We just  
7 needed to know, because as an individual, you have three minutes,  
8 and as representing an organization, you have five minutes to make  
9 a presentation.

10 VICE CHAIRMAN SOCKWELL: And actually we prefer the  
11 home address since you are an individual.

12 MS. PEARSON: Okay. 2107 Amherst Road, in  
13 Lewisdale, Maryland 20783. I would like to say that I am in  
14 support of the expansion of the physical space for the school. In  
15 the past, I have had two students at the school who have gone from  
16 two years old to the 8th grade.

17 They both have been very successful in life. My  
18 younger son is now 20, and I was a very active parent during that  
19 time, and one of the major issues we had was enough space for the  
20 children. It is difficult to learn if you don't have enough space  
21 for it, and we have all worked towards expanding the room for the  
22 children over the years.

23 And that this is a great opportunity not only to  
24 enhance the District's handling of school children, but also to  
25 create a better opportunity for the students that are currently in

1 the school to have room to grow and learn. And I didn't really  
2 need five minutes.

3 VICE CHAIRMAN SOCKWELL: All right. Thank you very  
4 much, Ms. Pearson. Do we have any questions for Ms. Pearson? If  
5 not, there are no parties in opposition, and no persons in  
6 opposition still? Thank you. And I would accept closing remarks  
7 by Mrs. Campbell.

8 MS. CAMPBELL: I would just request that the board  
9 give positive consideration to this. I think we have proven  
10 ourselves over the past 20 years. I have seen quite a lot of  
11 changes, both positive and negative, in the Georgia Avenue  
12 community. But I believe in it, and I support it, and I would  
13 like to stay there.

14 I think that we have contributed considerably to  
15 the community, and to the City, and to the world through the  
16 students that we have created. They are all contributing well to  
17 society. We would like to continue that.

18 I would ask only that you let me know today, if  
19 possible, with a bench decision. Hopefully the ANC issue, and I  
20 will pursue that immediately, will not impede a bench decision.  
21 We are ready to proceed. We would like to have the modules in  
22 place for the new school year.

23 VICE CHAIRMAN SOCKWELL: Let me ask you just a  
24 couple of quick questions.

25 MS. CAMPBELL: Sure.

1                   VICE CHAIRMAN SOCKWELL:     First, there was no  
2 concern in the neighborhood about the potential of additional  
3 traffic. You plan to drop all of your students off and pick them  
4 up from the Georgia Avenue building?

5                   MS. CAMPBELL:     Primarily that will be the drop-off  
6 and pick-up location there. As I said, if someone is late  
7 arriving there, there is a provision for them to drop off on  
8 Quackenbos, but again there are only three houses other than ours  
9 on that block.

10                  VICE CHAIRMAN SOCKWELL: All right.

11                  MS. CAMPBELL:     So there should not be a traffic  
12 problem.

13                  VICE CHAIRMAN SOCKWELL:     Are there any weekend  
14 programs involved in your school?

15                  MS. CAMPBELL:     None to speak of. We do have soccer  
16 teams and T-Ball teams, and so forth, and they do have games on  
17 the weekends sometimes, but there isn't a weekend program.

18                  VICE CHAIRMAN SOCKWELL:     You show an outdoor play  
19 area which is designed as a basketball court for a full-court  
20 sized children's scale game?

21                  MS. CAMPBELL:     Yes.

22                  VICE CHAIRMAN SOCKWELL:     Will these courts be  
23 available to the neighborhood at any time, or are they  
24 specifically for the use of the school?

25                  MS. CAMPBELL:     No, I cannot say that the

1 neighborhood will not use them.

2 VICE CHAIRMAN SOCKWELL: Understood.

3 MS. CAMPBELL: We do have playgrounds, and they are  
4 fenced and locked, but they still get used by the neighborhood.  
5 Liability insurance requires that we say that it is for the  
6 exclusive use of our children, but we all know that is not the way  
7 that it happens.

8 VICE CHAIRMAN SOCKWELL: Okay. It is not public  
9 access.

10 MEMBER RENSHAW: A question about the modular units  
11 again. Each has an individual air-conditioning unit?

12 MS. CAMPBELL: Yes, it does.

13 MEMBER RENSHAW: And how does that increase the  
14 noise level in the community if all 4 or 5 of these units go at  
15 once?

16 MS. CAMPBELL: Well, all five units would be on the  
17 alley. There would be two at the rear alley, and three at the  
18 side alley. So I don't think there would be a significant  
19 increase during the day.

20 The ones on the side alley are on a commercial  
21 alley. The ones that would be on the rear alley, there is only  
22 one garage, and then vacant spaces, vacant lots, where we plan to  
23 put our garage.

24 MEMBER RENSHAW: Have any of the neighbors asked  
25 about that, the noise?

1 MS. CAMPBELL: No.

2 MEMBER RENSHAW: Has your engineer -- do you have  
3 an engineer, and has he or she been asked to give a reading as to  
4 how noisy it is going to be?

5 MS. CAMPBELL: No, they have not been asked. Now,  
6 these are not the huge air-conditioning units. In fact, they are  
7 not even the size of a home unit. They are the packs that are  
8 attached to the back.

9 MEMBER RENSHAW: All right.

10 VICE CHAIRMAN SOCKWELL: Generally, I don't recall  
11 them being particularly noisy where I have been them in operation.  
12 And your playground will have lighting or no lighting?

13 MS. CAMPBELL: The basketball area, I'm sure, will  
14 have lighting. The existing playground is not lighted.

15 VICE CHAIRMAN SOCKWELL: Okay. Generally, such  
16 lighting is requested to be controlled so that it doesn't lead off  
17 into the neighborhood, and I would assume that you would maintain  
18 that as it is a requirement of code.

19 And the only other question that I wanted to ask  
20 you was -- well, anyway, I really don't have any other questions.

21 I do want to caution you that -- oh, that's the question. The  
22 modular buildings that you plan to have. For about how long do  
23 you plan to have them? Do you plan to replace them eventually  
24 with permanent structures?

25 MS. CAMPBELL: That's a good question. I have a

1 five year plan, but not a 10 or 20. Cost is a major concern. We  
2 were able to take advantage of these buildings, and of course they  
3 came before we were able to come before you.

4 But we were able to save about \$40,000 by accepting  
5 them at that time. To build the kind of structure that we want  
6 and envision on that site will take not less than a million  
7 dollars. To put these in place, we will probably be able to do  
8 for a hundred-thousand.

9 So that is a considerable saving. It will take,  
10 I'm sure, a good bit of time to generate funds to do a real  
11 building. That is our dream. But I could not say. I'm sure that  
12 it would be 10 years down the line or more before we could do  
13 that.

14 VICE CHAIRMAN SOCKWELL: Unless you find a living  
15 angel.

16 MS. CAMPBELL: Exactly. And I don't play the  
17 lotto, or D.C.'s anyways.

18 VICE CHAIRMAN SOCKWELL: Well, I have no further  
19 questions for you. It appears that with the level of support that  
20 you have from the community and the duration of the program, and  
21 you have presented yourself very well to us today, I am in favor  
22 of a bench decision on this, once again stating that the building  
23 department will be your real hurdle in getting this put together.

24 MS. CAMPBELL: Right. I'm sure.

25 VICE CHAIRMAN SOCKWELL: And I would move or ask my

1 board members to move that we approve the private school for these  
2 lots, which will be subdivided eventually, and the facilities to  
3 be located at Lots 808, 809, 810, 139, 1060, 107, 110, 111, and  
4 112, in Square 2982.

5 MR. HOOD: If you are finished with the motion, I  
6 will second it.

7 VICE CHAIRMAN SOCKWELL: Any discussion? All in  
8 favor?

9 (Ayes.)

10 VICE CHAIRMAN SOCKWELL: Opposed? Abstentions?  
11 The motion is passed. Thank you very much for your time and good  
12 luck.

13 MS. CAMPBELL: Thank you very much.

14 VICE CHAIRMAN SOCKWELL: Your order should be  
15 issued within two weeks, 2 to 2-1/2 weeks.

16 MEMBER RENSHAW: You may have a new career before  
17 the zoning boards. Very well done.

18 MS. CAMPBELL: Thank you very much.

19 MS. BAILEY: Members of the Board, the staff will  
20 record the vote as four to zero, motion made by Mr. Sockwell, and  
21 seconded by Mr. Hood, Mr. Moulden, and Mrs. Renshaw, to approve  
22 the application.

23 Mr. Chairman, are you ready for the next case?

24 VICE CHAIRMAN SOCKWELL: Yes.

25 MS. BAILEY: Thank you. This is Application Number

1 16600, of the Union of American Hebrew Congregations, pursuant to  
2 11 DCMR 3103.2 and 3104.1, for a special exception under  
3 Subsection 508.1 for the construction of an addition to an  
4 existing building for office use, a variance under Section 531.1  
5 from the floor area ratio requirement, and a variance under  
6 Section 2001.3(b) and (c), from the limitation on additions to  
7 non-conforming structures devoted to conforming uses in a DC/SP-1  
8 District at premises 2027 Massachusetts Avenue, N.W., Square 94,  
9 and that is Lot 21.

10 All those wishing to testify, would you please rise  
11 to take the oath.

12 (All witnesses were sworn.)

13 MS. BAILEY: Mr. Chairman, several items have come  
14 in since your packages were sent. The first is a report from the  
15 Office of Planning, and we have also received a report from the  
16 Advisory Neighborhood Commission-2B. These two items need to be  
17 waived into the record. Would you like to do that now, sir?

18 VICE CHAIRMAN SOCKWELL: Yes. I would move that  
19 the rules be waived and that the documents be admitted into the  
20 record.

21 MS. BAILEY: Thank you.

22 DIRECTOR KRESS: You just moved --

23 MR. MOULDEN: I will second the motion.

24 VICE CHAIRMAN SOCKWELL: All in favor?

25 (Ayes.)

1 MS. BAILEY: The staff will report the vote as four  
2 to zero to accept the documents into the record. We have checked  
3 the file and the affidavits have been timely posted and filed. We  
4 have a report from the D.C. Historic Preservation Review Board,  
5 and the Dupont Circle Conservatory. This project is now ready for  
6 you to hear.

7 VICE CHAIRMAN SOCKWELL: Thank you. One question.  
8 Is there any opposition here against this particular application?

9 (No audible response.)

10 VICE CHAIRMAN SOCKWELL: And I don't think that Mr.  
11 Glasgow and company have been sworn in.

12 MR. MOULDEN: They have.

13 VICE CHAIRMAN SOCKWELL: Oh, you have? All of you?

14 MR. GLASGOW: The witnesses have been, yes, sir.

15 VICE CHAIRMAN SOCKWELL: Okay. You guys just don't  
16 look like you have been sworn in.

17 (Laughter.)

18 VICE CHAIRMAN SOCKWELL: All right. Would you  
19 please begin. Thank you.

20 MR. GLASGOW: Thank you, sir. Good afternoon,  
21 Members of the Board. For the record, my name is Norman M.  
22 Glasgow, Junior, of the law firm of Wilkes Artest. Here with me  
23 today is Mr. Dennis Hughes of the same office, Mr. Stuart  
24 Bindeman, who is also present, and who is a member of the Board of  
25 the Union of American Hebrew Congregations, who is seated to my

1 right past Dennis, and the owner of the building, Mr. Cal Bowie,  
2 of Bowie Gridley Architects, who is on the far end of the table,  
3 and also here is Mr. Paul Andoceno, of Bowie Gridley Architects.

4 VICE CHAIRMAN SOCKWELL: And, Mr. Glasgow, since it  
5 appears that there is no opposition to this, and the advisory  
6 neighborhood commission, and the historic preservation people are  
7 in support, I would wish that you just touch the highlights, and  
8 not necessarily go through the entire case if you don't mind.

9 MR. GLASGOW: Yes, sir. I would be happy to do  
10 that. Essentially, this case boils down to -- and I will give a  
11 very brief opening statement, and turn it over to the witnesses.  
12 We are adding about 500 square feet on three floors to this  
13 building so that we can have access by elevator, ADA access, and  
14 add in a stairwell.

15 In fact, the actual office use inside the building  
16 will be slightly decreased. There is going to be no change with  
17 respect to the intensity of the use of the building, number of  
18 employees, or any of that. So it is a very technical area of  
19 relief.

20 We have been to a number of citizen meetings in the  
21 area. We have unanimous support. We have been to the historic  
22 preservation review board, and to the Dupont Circle Conservancy.

23 This site is on a triangular lot, and when you look  
24 at the floor plans that will be exhibited by the architect, you  
25 will see the very minor nature of the building addition, and

1 unless there are any preliminary questions, given the small nature  
2 of the addition, I would like to turn it over to Mr. Bindeman.

3 And we also have the statement of applicant, and  
4 Mr. Bindeman, do you adopt the statement of the applicant as your  
5 statement in this case?

6 MR. BINDEMAN: Yes, I do.

7 MR. GLASGOW: All right. Mr. Bindeman, please  
8 identify yourself for the record, and proceed with your statement.

9 MR. BINDEMAN: Good afternoon. My name is Stuart  
10 Bindeman, and I am a member of the Board of Directors of the Union  
11 of American Hebrew Congregations, and the owner of this property  
12 which has operated the Religious Action Center at these facilities  
13 since the 1960s.

14 Since I have adopted the statement of the applicant  
15 filed with the board, and in order to try and save some time, I am  
16 prepared to answer any questions that the board may have.

17 VICE CHAIRMAN SOCKWELL: I don't really have any  
18 specific questions. It is very clear the extent of the addition,  
19 and the purpose of the addition, and if anything, it is very  
20 simplistic and straight forward.

21 MR. BINDEMAN: Yes, sir, I think so.

22 MR. GLASGOW: Now we will proceed with the  
23 testimony of Mr. Cal Bowie.

24 MR. BOWIE: Mr. Chairman, and Members of the Board,  
25 my name is Cal Bowie, and I am a principal of the firm of Bowie

1 Gridley Architects. I am delighted to be here today to tell you  
2 briefly and quickly about this project.

3 In short, as Chip said, this project addresses  
4 handicap access to an existing building, a wonderful existing  
5 historic structure in the Dupont Circle Historic District. It  
6 will provide access to the building on one of the street  
7 frontages, the rear street frontage, rather than the front, where  
8 because of the topography and the changes existing, you cannot  
9 achieve a ramp entrance to the building.

10 Furthermore, it will provide handicap ADA  
11 accessible toilets inside the building, and address life safety  
12 issues by providing a new fully enclosed fire stair that touches  
13 all of the existing floors.

14 It will preserve and even highlight the historic  
15 fabric of the building itself, and adds no additional office  
16 space. As Chip said, it has been fully reviewed and accepted by  
17 the neighbors and the regulatory authorities.

18 The only piece of work that would be remaining for  
19 us would be a public space permit for a bay projection, which is  
20 contemplated by the design. That bay projection is largely there  
21 to cover an open stair which goes to an entrance to the basement  
22 at the lower level.

23 I will quickly take you through the drawings, and  
24 then give you my opinion as an expert witness.

25 VICE CHAIRMAN SOCKWELL: And for the record, Mr.

1 Bowie has appeared before this board in the past, and I don't  
2 think there is a reason for us to prequalify other than to say  
3 hello.

4 MR. BOWIE: Just going very quickly to the site,  
5 Massachusetts Avenue is on the bottom of this drawing, and 21st  
6 Street and Q Street is right here, and the Philips Collection is  
7 diagonally across from that intersection, and in the heart of  
8 Embassy Row.

9 The building is a wonderful Bogards building, and a  
10 brick structure, and with two stories and a roof on the front  
11 side, and three in the back actually because of the change in  
12 topography.

13 And what we are adding to the building as Chip said  
14 is only about 500 square feet on each floor, and a projected area  
15 way entrance to the lower level.

16 There are already bays existing on a covered space on all of the  
17 three other sides.

18 Existing at that point right now is an enclosed  
19 courtyard, which has air-conditioning equipment in it and which  
20 will be moved to the roof of this building. So in fact it will be  
21 an improvement in terms of noise to the neighboring properties.

22 On the bottom of this border, the photographs of  
23 the existing building, and Massachusetts Avenue beside in the  
24 lower left-hand corner, and the Q Street side, and on the end, Q  
25 Street from the east side.

1           These drawings show the existing floor conditions  
2 and the open courtyard that exists right now in the back. The  
3 proposed drawing shows how we are creating a new fire stair within  
4 the physical building, but still not disturbing the fabric of the  
5 significant rooms that really have never been changed to this  
6 particular structure.

7           And adding an elevator and new handicap bays on the  
8 toilets for each floor. A second set of drawings shows the  
9 existing elevations as it is today. There is a wall, which is the  
10 plane of the property line, and that is the line that we are  
11 building the addition on.

12           And what we are doing is creating really a new  
13 facade which stays flat, rather than folding back the existing  
14 facade. The intent in a work sense is really to leave the fault  
15 of these buildings looking different. In other words, the brick  
16 and the detailing of the new work will be compatible, but  
17 different, from the existing one, but not an extension of the  
18 fabric of the existing building.

19           As I said, there is a bay projection, which in fact  
20 ties to an area way on public space, but they won't give formal  
21 approval until you all do, but they say they have no problem and  
22 that it is within the limitations of the amount that is allowed on  
23 this facade.

24           There is already one bay that exists further down  
25 the site, and that pretty much is the extent of the project. It

1 is a very simple little project.

2 VICE CHAIRMAN SOCKWELL: The existing windows and  
3 frames behind your new construction will remain in place as  
4 ornamental interior?

5 MR. BOWIE: No, in fact they --

6 VICE CHAIRMAN SOCKWELL: Well, it just appeared  
7 that they were still in place in the drawing that I was looking  
8 at, but maybe that is not the case.

9 MR. BOWIE: No. Part of the structural wall lines  
10 remains, but they have kind of deteriorated, and the elevator was  
11 actually built in the gap in between. So they are enclosed in the  
12 wall.

13 VICE CHAIRMAN SOCKWELL: Well, it looked like they  
14 remained physically within from the one that I was looking at.  
15 Maybe they didn't.

16 MR. BOWIE: No.

17 VICE CHAIRMAN SOCKWELL: Okay. So with regard to  
18 public space, that is another matter all together and that's  
19 whatever they decide to do.

20 MR. BOWIE: Yes.

21 VICE CHAIRMAN SOCKWELL: But it seems to be a very  
22 tasteful and very compatible addition. Sort of like a mini-  
23 Federal Triangle.

24 MR. BOWIE: I wish, but --

25 (Laughter.)

1 MR. BOWIE: All of the other buildings in that row  
2 and in the back are built to a consistent scale, and the buildings  
3 across the street are very much the same scale as this piece.

4 MEMBER RENSHAW: Mr. Chairman, a question. Mr.  
5 Bowie, on the drawing on the left, what is the building right --  
6 is it in back of? Right there where your hand is?

7 MR. BOWIE: Our lot line is actually right here.  
8 This is a portion of our building which is actually set back. In  
9 other words, if I were to show you that piece of the building,  
10 which actually bends back in away from the line of the property,  
11 which still goes along that line.

12 MEMBER RENSHAW: So you are going to be removing  
13 those windows in this building up?

14 MR. BOWIE: Yes. Actually, they get built into the  
15 walls. That wall will remain there, but covered by the overbuild.

16 MR. HOOD: I just have a question. Again, I am  
17 treading on thin water here because I am not an architect, but the  
18 side where -- can you put up the last drawing that you just had  
19 for Commissioner Renshaw?

20 MR. BOWIE: This is the Q Street side here.

21 MR. HOOD: And my question is that you are saying  
22 that the building that is to the left sits back?

23 MR. BOWIE: That is correct. The next building in  
24 the row actually sits back from the end point of our lot line, and  
25 it is down at the bottom here, at the point of the triangle.

1 MR. HOOD: Okay. With your new addition are you  
2 blocking any light or anything?

3 MR. BOWIE: No. They are all north facing facades,  
4 and in fact there is quite a bit of -- in that facade window it is  
5 quite a bit a ways away.

6 VICE CHAIRMAN SOCKWELL: Would you flip your  
7 drawing so that we can look at the elevations briefly. One of the  
8 elevations shows --

9 MR. BOWIE: What sticks out is right here, and it  
10 is actually something that you all approved about two or three  
11 years ago. It was a new access, and it only has a door in the  
12 middle of it, about a ways over. We have come out to surpass that  
13 point.

14 MR. HOOD: So can you show me with that picture the  
15 relationship where your new addition is?

16 MR. BOWIE: This the part of the building that is  
17 folded back to the grid of the city, and so it is that piece back  
18 in there that gets built in right here.

19 VICE CHAIRMAN SOCKWELL: So from the standpoint of  
20 their drawings, it is right in there if you flip that around.

21 MR. BOWIE: That piece that sticks out is right  
22 there, and as you can see in that photograph, it is really sort of  
23 a story-and-a-half tall.

24 MEMBER RENSHAW: Where is the tree?

25 MR. BOWIE: The tree is way out on the corner out

1 here, and it is actually on the neighbor's property.

2 MEMBER RENSHAW: But that is not going to be  
3 damaged?

4 MR. BOWIE: No, because we already have a wall and  
5 a foundation that is in place right there. This is that wall and  
6 the tree, and the wall actually comes across right there.

7 MEMBER RENSHAW: Can you do something to clean up  
8 this, and make it look --

9 MR. BOWIE: That is part of the agreement that we  
10 have made with the neighbors.

11 MEMBER RENSHAW: Would you go back to the mike and  
12 tell us what you are going to do. We had asked about cleaning up  
13 that back area. So, Mr. Bowie will explain.

14 MR. BOWIE: Specifically, there is some paraging on  
15 the building, and the labeling of the parking spaces, which the  
16 agreement with the neighbors addresses, and we will clean that up  
17 and make it compatible with the rest of the back of the building.

18 The other thing was that the trash containers are  
19 located there currently, and we made an agreement with the  
20 neighbors that the trash containers would go in an enclosure,  
21 rather than just sitting out there by themselves. And that is  
22 included within the letter from the ANC, I believe.

23 MR. HOOD: Commissioner Renshaw, I think we may be  
24 able to address some of those issues, and if it is approved, put  
25 them on as conditions.

1 MR. BOWIE: May I proceed?

2 VICE CHAIRMAN SOCKWELL: Yes.

3 MR. BOWIE: It is my opinion as an expert that this  
4 is in fact a unique and exceptional site, because it is one of the  
5 wonderful triangular sites created by the city grid and the axial  
6 avenues intersecting each other.

7 And that there are practical difficulties with  
8 resolving these issues of handicap egress, and accessible toilets,  
9 within the fabric of the existing building.

10 It is a small building, and including a new fire  
11 stair within it, and solving the other problems with the elevator  
12 would substantially destroy the historic fabric, which is  
13 certainly not the owner's intention.

14 It also will remove an old existing fire escape  
15 from the back by providing a new fully rated fire stair inside.  
16 I believe that it has no adverse impact upon the neighborhood or  
17 adjoining property owners, and I conclude that we have met the  
18 test and satisfied the burden of proof for a special exception.

19 VICE CHAIRMAN SOCKWELL: Thank you. Do you have  
20 other --

21 MR. GLASGOW: Mr. Chairman, we do not have any  
22 further witnesses other than questions. We would hope that the  
23 board would be able to grant a bench decision in this case.

24 VICE CHAIRMAN SOCKWELL: We have a little ways to  
25 go, but does the board have any questions of these witnesses?

1 (No audible response.)

2 VICE CHAIRMAN SOCKWELL: Then I would ask for  
3 government reports, of which we have none. We have a report of  
4 the advisory neighborhood commission 2-B, which has approved the  
5 project.

6 MS. MCCARTHY: I'm sorry, Mr. Chairman, but there  
7 is a report from the Office of Planning.

8 VICE CHAIRMAN SOCKWELL: Oh, you didn't say  
9 anything. I probably didn't see it. Yes, here it is. Then I  
10 request that Ellen McCarthy present the Office of Planning report,  
11 and we go backwards to that.

12 MS. MCCARTHY: Good afternoon, Mr. Chair, and  
13 Members of the Board. In the interests of time, why don't I just  
14 very briefly summarize the Office of Planning report, which  
15 essentially agrees with Mr. Bowie's statement that both the  
16 historic nature of the building and the unique shape of the lot do  
17 constitute extraordinary exceptional circumstances, and that  
18 because it is removing the outside fire stairs because it is  
19 solving the code problem without destroying the historic fabric,  
20 because it is doing so in a design that is approved by the  
21 Historic Preservation Board; and supported by two different  
22 organizations in the neighborhood, that we find that this can be  
23 granted without any harm to the integrity of the zone plan.

24 It is consistent with general planning principles,  
25 and meets the test for the zoning relief, and our recommendation

1 basically was approval for the building, with the conditions that  
2 have already been agreed to by the applicant in its agreement with  
3 the ANC.

4 VICE CHAIRMAN SOCKWELL: Thank you, Ms. McCarthy.  
5 Any questions of the Office of Planning by the board? If not, any  
6 cross-examination by the applicant?

7 Then we will move to the advisory neighborhood  
8 commission report from ANC-2B. And at its regularly scheduled  
9 public meeting of September 13th, 2000, ANC-2B considered BZA  
10 application 16600, an application by the Religious Actions Center,  
11 for special exceptions and variances under Section 508.1 and  
12 531.1, and 2001.3 for the construction of an addition at 2027 Mass  
13 Avenue.

14 With 7 of 7 commissioners in attendance, the  
15 following motion was unanimously approved. ANC-2B supports  
16 approval by the BZA of the special exception and variance requests  
17 of BZA application 16600 for the purpose of constructing an  
18 addition on the Q Street facade of the building.

19 ANC-2B's support of application 16600 is subject to  
20 inclusion of the attached, mutually approved, voluntary agreement  
21 in BZA's final order on this matter. The voluntary agreement  
22 addresses signage, parking area, upkeep, and an agreement to  
23 construct a trash enclosure.

24 And it goes into discussing that there were many  
25 concerns, and that the architect demonstrate a desire to develop

1 solutions, and the design level will fit well into the historic  
2 nature of the area, and suggests a contact person.

3 And I do not think -- I mean, we could read the  
4 agreement aloud, and that way it will become part of the record,  
5 and we won't have to discuss it, but there are several enclosures  
6 which are drawings describing the final agreed upon conditions  
7 that needed to be described graphically, and those are dated  
8 5/23/2000.

9 The agreement is signed by Kyle Pister, Chairperson  
10 of ANC Commission 2B. I will read the substantive issues.  
11 Agreement made this 6th day of September, 2000 by and between the  
12 Union of American Hebrew Congregations (owner) and Advisory  
13 Neighborhood Commission 2B (ANC-2B).

14 Recitals: Whereas, owner is the owner of Lot 21 in  
15 Square 94, known as premises 2027 Massachusetts Avenue, Northwest  
16 (the property); and whereas the property is located within the  
17 boundaries of ANC-2B, such ANC being organized pursuant to the  
18 Advisory Neighborhood Commission Law, D.C. Code 1-251, et cetera,  
19 and whereas owner desires to construct a 3-story addition to the  
20 property, said addition to be used primarily for an elevator and  
21 additional stair access, and whereas to that end the owner has  
22 applied to the Board of Zoning Adjustment (BZA) (Application  
23 Number 16600), for certain special exceptions and variance relief  
24 necessary to construct the above referenced improvements.

25 And whereas owner and ANC-2B believe that working

1 together cooperative ensures a better neighborhood; and whereas  
2 due to the proximity of the subject property to residential uses,  
3 owner and ANC-2B desire to enter into an agreement to address  
4 certain community concerns regarding the property.

5 And whereas ANC-2B at its regularly scheduled  
6 meeting on May 10th, 2000 voted unanimously to support project  
7 application number 16600 to the BZA, provided that certain  
8 conditions are met; and whereas, in consideration for the ANC  
9 support of, the project owner has agreed to ANC's conditions --

10 MR. HOOD: Mr. Chairman, may I interrupt?

11 VICE CHAIRMAN SOCKWELL: Go ahead.

12 MR. HOOD: I think that this is a part of the  
13 record already, and for the sake of time --

14 VICE CHAIRMAN SOCKWELL: Well, there is only one  
15 other page.

16 MR. HOOD: I agree. I should have stopped you  
17 earlier.

18 VICE CHAIRMAN SOCKWELL: But since you didn't, I  
19 will continue. The owner agrees to remove painted wall signage  
20 from Q Street frontage of property, and owner agrees to maintain  
21 and keep clean the parking area on the property, and subject to  
22 appropriate D.C. government approval, the owner agrees to  
23 construct a trash enclosure on the property as described herein,  
24 and those drawings that I mentioned.

25 And would maintain and house the dumpsters and

1 trash cans therein, and it was signed by David Saperstein,  
2 Director and Co-Counsel for the Union of American Hebrew  
3 Congregations, and signed by Kyle Pister as I stated, and has two  
4 attachments, or three attachments, and this will be in the record,  
5 and will be a part of the order should the board approve said  
6 application. Closing remarks and/or discussion?

7 MEMBER RENSHAW: Mr. Chairman, just to note on this  
8 page that there are two handwritten addendums, and brought to our  
9 attention that the ANC commissioner in that single number  
10 district, and the ANC as a whole, have to be contacted about any  
11 changes to these, and to be kept in touch with what is going on.

12 VICE CHAIRMAN SOCKWELL: An ongoing relationship.

13 MEMBER RENSHAW: Yes, an ongoing relationship, and  
14 I would add that if there is a chance for a tree or two back  
15 there, could you please plant? Thank you in the name of the ANC.

16 VICE CHAIRMAN SOCKWELL: Okay. Provided that there  
17 are no questions on the Advisory Neighborhood Commission report,  
18 and there are no persons in support to be heard from, and none in  
19 opposition, closing remarks from the applicant, which I think  
20 would be a reiteration of what he said before, there is a bench  
21 decision, and thank you very much, and good night.

22 MEMBER RENSHAW: Are we voting?

23 VICE CHAIRMAN SOCKWELL: I would move, if there is  
24 no discussion, that we approve the request for the special  
25 exception and variance, and that the ANC conditions be bound into

1 the approval order.

2 DIRECTOR KRESS: May I also add that there were a  
3 couple that were in the OP's recommendation reports. The first  
4 one is that the applicant shall provide proper parking signs on  
5 the Q Street side of the building, and you might wish to include  
6 that.

7 Number 2 is that the applicant shall enclose its  
8 garbage as requested by the ANC, and that is already taken care  
9 of.

10 VICE CHAIRMAN SOCKWELL: Right.

11 DIRECTOR KRESS: Number 3 though is not though.  
12 The applicant shall continue work with the HPRB staff on materials  
13 and details of the design. I am not sure that needs to be said.  
14 As you know, they have to maintain and get those approvals  
15 separate and independent from us.

16 VICE CHAIRMAN SOCKWELL: Yes.

17 DIRECTOR KRESS: And then the last item was that  
18 Board Member Renshaw suggested a tree or two. I just wanted to  
19 point those out to you and to be whether you want them in your  
20 motion or not.

21 VICE CHAIRMAN SOCKWELL: Where would those trees be  
22 located?

23 MR. BOWIE: We could certainly get some near the  
24 trash container or some additional planting out there.

25 VICE CHAIRMAN SOCKWELL: All right. If the motion

1 is conditioned as amended by and as explained by staff, Ms. Kress,  
2 and with the addition of Ms. Renshaw's request for additional  
3 landscaping, preferably trees, as possible, is there anything else  
4 that should be added to this that you can think of?

5 DIRECTOR KRESS: I didn't see anything. I just  
6 wanted to point those out.

7 VICE CHAIRMAN SOCKWELL: Okay. And I appreciate  
8 that. Then I would move that we approve. Do I get a second?

9 MEMBER RENSHAW: Second.

10 VICE CHAIRMAN SOCKWELL: Any discussion? All in  
11 favor?

12 (Ayes.)

13 VICE CHAIRMAN SOCKWELL: Any opposed or  
14 abstentions?

15 (No audible response.)

16 VICE CHAIRMAN SOCKWELL: Done. Thank you.

17 MS. BAILEY: The staff will record the vote as four  
18 to zero to approve the application, with conditions outlined in  
19 the ANC report, and by the Office of Planning. The motion made by  
20 Mr. Sockwell, and seconded by Mrs. Renshaw, and Mr. Moulden, and  
21 Mr. Hood, to approve.

22 The next case of the afternoon is Application  
23 Number 16601, of NJA Development Partners, L.P., Daniel and Mary  
24 Loughran Foundation, Inc., pursuant to 11 DCMR 3103.2 and 3104.1,  
25 for variances from Subsection 1709 for the requirement to use TDRs

1 and from Subsection 773.3 for the residential recreation space  
2 requirement and for a special exception under Subsection 411.11  
3 for multiple roof structures set back less than 1 to 1 from the  
4 edge of the roof to construct a 130 foot, 9.6 floor area ratio  
5 apartment house, to contain approximately 371 units, and hotel, to  
6 contain approximately 170 rooms, with optional ground floor retail  
7 and/or office uses in a C-3-C District/Receiving Zone at premises  
8 New Jersey Avenue, K, L, and 2nd Streets, Southeast. This is  
9 Square 741, Lots 7, 8, 13, 14, 16 through 18, 20 through 36, 801,  
10 803, 804, 807 through 809, and on a public alley proposed to be  
11 closed.

12 All those wishing to testify, would you please rise  
13 to take the oath.

14 (All witnesses were sworn.)

15 MS. BAILEY: You may be seated. Mr. Chairman,  
16 several items have been submitted into the record since this  
17 project was sent to you, one of which is the report from Advisory  
18 Neighborhood Commission 6B.

19 A waiver is needed to accept that into the record,  
20 sir. Would you like to do that now?

21 VICE CHAIRMAN SOCKWELL: I move that we waive the  
22 rules to accept the ANC report.

23 MR. HOOD: I will second.

24 VICE CHAIRMAN SOCKWELL: All in favor?

25 (Ayes.)

1 MS. BAILEY: It is so noted by the staff. In  
2 addition to that, there are some other items that have been  
3 submitted; a letter from the Capitol Hill Restoration Society, and  
4 the applicant has also submitted revised architectural plans, and  
5 I think those have been given to the board.

6 All of the following requirements have been met,  
7 and we have just received an affidavit of maintenance, indicating  
8 that the posting has been properly maintained, and this case is  
9 now ready for you to hear.

10 VICE CHAIRMAN SOCKWELL: Thank you. You may  
11 proceed.

12 MR. GLASGOW: Thank you, Mr. Chairman. For the  
13 record, my name is Norman M. Glasgow, Junior, of the law firm of  
14 Wilkes Artest. Here with me today is Mr. Dennis Hughes of the  
15 same firm.

16 Seated to Dennis' right is Mr. Robert Holland, of  
17 MJA Development Partners. Mr. Sheldon Stein of MJA Development  
18 Partners is also here in attendance here today representing the  
19 applicant.

20 Mr. Simon and Mr. Gang of SKG Architects, and Mr.  
21 Harps, of Harps and Harps, Inc., who is a real estate valuation  
22 expert; and Mr. Steven E. Sher, land planner with the firm of  
23 Holland and Knight.

24 Mr. Holland is also submitted as an expert in  
25 residential and multifamily development, and Mr. Holland will be

1 able to explain that briefly. He has been the developer of 88  
2 residential projects.

3 Mr. Harps and Mr. Sher have previously been  
4 accepted as expert witnesses by this board in the past. Next, I  
5 would like to proceed with a brief opening statement.

6 This project is located in Square 741, in a C-3-C  
7 zoning district. It is located at the intersections of New Jersey  
8 Avenue, K and L Streets, comprising almost the entirety of Square  
9 741, except for Lot 19.

10 This certainly presents a tremendous opportunity  
11 for the District of Columbia, and as noted in the Office of  
12 Planning report, it is a project that is critical to the future of  
13 the near southeast, and to the District as a whole, that this  
14 project be realized.

15 So we have very strong Office of Planning support,  
16 and strongly recommends that the Board approve both variances and  
17 the special exception. This is certainly a unique case in my  
18 experience, and I am unaware of any project in the C-3-C district  
19 to be devoted principally to apartment house use, with  
20 approximately 375 apartment units being proposed, and a 170 unit  
21 hotel.

22 This use combination in the TDR receiving zone is  
23 without precedent, and what is particularly unique is the  
24 apartment building. And in proceeding with this case the  
25 applicant has been extremely creative in pulling together an

1 economic development package which allows an apartment building to  
2 go forward, although as it will be testified to, it is marginally  
3 financially feasible.

4 As will be discussed later, this involves obtaining  
5 DC/FHA financing, and there will be a TIF application for the  
6 hotel, and from the Board's standpoint, the obtaining of variance  
7 relief from the requirements to use transferable development  
8 rights as the mechanism from increasing FAR, from 6.5 to 10, and  
9 to obtain 130 feet in height.

10 The other areas of relief involve a variance from  
11 the residential recreation space requirement, and we note that the  
12 applicant in this case is meeting about 50 percent of that  
13 requirement through the provision of a pool, open space, and  
14 meeting room within the project.

15 Lastly, there is the special exception for roof  
16 structure, set back at less than 1 to 1 from the edge of the roof,  
17 and for the number of roof structures. Given the size of the  
18 building, we think that those requests are appropriate and  
19 sustainable.

20 The applicant has filed a statement of applicant,  
21 which should be a part of the record. This statement goes into  
22 some detail in pages 1 through 25 as to the nature of the relief  
23 requested, and how the applicant meets that burden of proof.

24 The subject site is unique and affected by several  
25 exceptional situations or conditions. The applicant is faced with

1 practical difficulty without the granting of variance relief, and  
2 that there would be no detriment to the zone plan if the variances  
3 requested are granted.

4 The witnesses of the applicant will discuss in  
5 detail of how the burden of proof is met. The applicant notes the  
6 large site of the subject site, and the large size of the subject  
7 site, which is approximately 48,000 square feet.

8 The zoning history and comprehensive plan history  
9 of the site, and the rezoning of the property from a CM zone to C-  
10 3-C, and the opportunity which is presented by recent planning  
11 initiatives for the creation of residential uses in this area of  
12 the city also constitutes part of the uniqueness of the site and  
13 the planning history.

14 In a review of the statement, you will note the  
15 location of the subject site is shown as Exhibit A within the  
16 statement, and Exhibit B shows the site being located in the C-3-C  
17 zoning district; and Exhibit C are plans for the project.

18 Exhibit F is the zoning commission order relating  
19 to the height and FAR of the Capital south receiving zone, of  
20 which this site is a part. Exhibits G, H, and I, and J, are  
21 outlines of the testimonies of the witnesses.

22 And Exhibit K is a zoning commission order relating  
23 to the rezoning of the site from CM district to C-3-C. The  
24 applicant has spent a substantial amount of time with the District  
25 government, and several of its offices, including the Office of

1 Planning, but also with respect to meeting with the housing people  
2 and others.

3 The ANC and the Capitol Hill Restoration Society  
4 instruction of project which can proceed forward to develop an  
5 apartment building on the site with the relief requested from the  
6 board.

7 The applicant has the support of the Office of  
8 Planning, and ANC, the Capitol Hill Restoration Society, and will  
9 look forward to the ability to present this exciting and  
10 innovative project to the Board of Zoning Adjustment.

11 We are prepared as a part of the presentation to  
12 respond to the recommendations and conditions of the OP and ANC  
13 support letters. If there are no preliminary questions from the  
14 Board, I would like to call the first witness, Mr. Robert Holland.

15 VICE CHAIRMAN SOCKWELL: Please proceed.

16 MR. HOLLAND: All right. Thank you, Mr. Chairman.

17  
18 MR. GLASGOW: Mr. Holland, will you please identify  
19 yourself for the record, and describe your history and background  
20 with residential development, and proceed with your statement.

21 MR. HOLLAND: My name is Robert Holland, and I have  
22 been a real estate developer in Washington for 30 years. I have  
23 done over 88 projects in Washington in my career. One of the more  
24 prominent ones is the Georgetown Waterfront Paper Mill.

25 In fact, I go back to that today and I look at it

1 and it looks better today than when we did it. I basically am a  
2 neighborhood developer, where I go in to areas such as Dupont  
3 Circle in 1974, when it was a slum. Most people don't remember  
4 that.

5 And basically I believe in redeveloping an area  
6 with a combination of retail, residential, and office, rather than  
7 any single one of those. One of the things that comes to mind,  
8 and I remember when L'Fant Plaza was built, and it was great  
9 during the day, and then at night it was barren.

10 And people would not even go down there because  
11 there was no people on the streets. Therefore, they felt  
12 uncomfortable.

13 And then we went ahead and under a C-3-C we did a  
14 total rezoning similar to what we did over on the New Jersey  
15 Avenue area in the west end. And if you remember the west end  
16 when they started it in 1978/1979, the same thing started  
17 happening.

18 The developers saw that you could build a hotel,  
19 and you could build an office building, and they immediately  
20 starting building those things, and apartment buildings were not  
21 in the plan. And finally towards the end, there were 2 or 3  
22 office buildings built right on the Park as condominiums.

23 And what I feel here is that we have an opportunity  
24 to start off on the right foot. We have a million-and-a-half  
25 square feet of office space going right now in the Navy Yard,

1 which will be occupied 8,000 people in the next six months.

2 When talking to Admiral Weaver, who is in charge of  
3 the Navy Yard, he said for every one employee we are going to have  
4 here, it is going to be serviced by one private employee. So  
5 instead of having 8,000 people, you are going to have 16,000  
6 people.

7 And you already have a city that has a huge  
8 commuting problem, and traffic problem, and so I am going, wow, we  
9 need to have a little residential here so they can live next door  
10 to relieve not only the traffic, but to have these people have a  
11 neighborhood that they can call their own, as well as the  
12 commercial side of it.

13 We see on either side of us -- the Gewarts on one  
14 side, on 300 M Street, are building 300,000 square feet, which is  
15 basically a hundred percent leased at \$35 a foot; and down the  
16 street we have Spaulding and Sly is doing another 300,000 square  
17 feet of office space.

18 So I am very excited to be in between them, because  
19 I think that we can service the community. Just one other thing  
20 that I want to add. I am coming back to Washington, D.C. I have  
21 been away for some years in New York, and so we have always  
22 maintained a home down in the Shenandoah Valley.

23 So I am coming in every day, and a 2-1/2 hour  
24 commute is not my -- I don't know how people do it. So I said to  
25 my wife that we have to move back to Washington. So let's look

1 for a place to rent and see what we want to do.

2 I have been looking for five months for an  
3 apartment, and last week there were 19 apartments available for  
4 rent in Washington, D.C., and to me that is -- I mean, New York  
5 has got a tight market, but Washington, it is beyond tight.

6 And what this does is not only for well off people,  
7 but this puts a pressure on the lower income people that live in  
8 this city, because their property comes in the eyesight of those  
9 developers who want to create more expensive housing for the  
10 people who want to live down there.

11 So, I think what we have to do is that we have to  
12 start looking not only at creating new neighborhoods with  
13 residential, but we have to create residential so we relieve some  
14 of that pressure on the taking away of those houses.

15 And basically I can't really say too much more  
16 than that we are excited about this project, and it has been 10  
17 years in the making. Everybody thinks I am nuts for not building  
18 an office building, but at the end of the day, I believe in this  
19 project, and I believe it has long term potential.

20 And out of my 88 projects, I have never had a  
21 loser, and I don't plan this one to be one either. Thank you,  
22 sir.

23 VICE CHAIRMAN SOCKWELL: Thank you. Any questions,  
24 Board Members?

25 MR. GLASGOW: I have one item for Mr. Holland. Mr.

1 Holland, it is my understanding that you are in the process of  
2 applying for D.C. FHA financing, and that this project will be 20  
3 percent affordable housing units?

4 MR. HOLLAND: That's correct. There will be 75  
5 units available.

6 MR. GLASGOW: Thank you.

7 VICE CHAIRMAN SOCKWELL: Thank you. And I would  
8 want to interject that in 1968, when I worked for Harry Weisen and  
9 Associates Architects, we were one of the first tenants in L'Fant  
10 Plaza's COMSEC building. There was no carpet on the floor.

11 And the concrete dust leached out of that system  
12 for years, and so our drawings were always covered with soot the  
13 next month or what seemed like it. Anyway, continue.

14 MR. GLASGOW: I would like to call the next  
15 witness, who is the architectural firm for the project, Mr. Steve  
16 Gang, and Sami Kokdig.

17 MR. GANG: For the record, my name is Stephen Gang,  
18 and I am a principal in the firm of SKG Architects and Planners,  
19 located at 4916 St. Elmo Avenue, in Bethesda, Maryland.

20 This is Exhibit Number 2, a brief description of  
21 the properties around it. North is up, and K Street is to the top  
22 of the sheet, and New Jersey Avenue is to the left, and L Street  
23 is to the Street is to the right of the sheet.

24 To the north, on the north side of K Street is an  
25 existing District of Columbia storage area, and to the east of the

1 site is an existing apartment complex, and an area for school bus  
2 storage. To the west of the site is a large scale industrial  
3 park.

4 To the corner of L Street and New Jersey is -- I  
5 think it is called the Matthews Baptist Church, and one block down  
6 on M Street and New Jersey Avenue is the existing Metro stop for  
7 the Navy Yard, and to the south is basically vacant property and  
8 automobile related facilities.

9 The lot size is 48,108 square feet, and it is  
10 divided into two land uses. Off of L Street is a 175 key hotel,  
11 in which they are approximately 116,570 square feet of FAR.

12 To the north, facing K Street and facing New Jersey  
13 Avenue, is a 14 story residential building, 130 feet in height,  
14 with approximately 347,443 square feet of FAR. There is two  
15 grounds of underground parking, with approximately 246 spaces.

16 We are seeking as Mr. Glasgow mentioned a variance  
17 regarding the open space requirements. The open space requirement  
18 in this zone requires 10 percent of the FAR to be in open space,  
19 which theoretically means that since we have 347,000 square feet  
20 of residential floor area, the exact same land area, since we are  
21 at 10 FAR, needs to be provided in recreation.

22 And I think or we think that is a very challenging  
23 thing, especially since there is X-number of square feet required  
24 for the building. What we are proposing is an indoor pool, which  
25 would take up approximately 2,600 square feet, a club house of

1 approximately 1,800 square feet, and an indoor club house of  
2 approximately 2,100 square feet.

3 There is also an active outdoor courtyard built on  
4 top of the garage in which we are planning that 80 percent of it  
5 will be green, and out of that 30 percent will be active. I think  
6 a suggestion from the department and the OP was to make it  
7 accessible for elderly and children, which we are planning to do.

8 The second, which is a special exception that we  
9 are asking for, has to do with rooftop structures, this is the  
10 rooftop plan, and it is our drawing number five.

11 The four areas that we are requesting is in the --  
12 I am going to start clockwise. At the southeast corner of the  
13 site off of L Street and East Second Street, a staircase from the  
14 hotel. In the corner of New Jersey and L Street, the cooling  
15 tower, and the elevator shafts for the hotel, plus the staircase.

16 In the northwest corner of the site, off of K  
17 Street and New Jersey Avenue, the elevator shaft, plus the cooling  
18 tower; and in the northeast corner of the site, an elevator for  
19 the loading dock for the residential, plus the staircase for the  
20 residential.

21 The setbacks from the three streets all adhere to  
22 the one-to-one slope or one-to-one requirements. There are all in  
23 excess of one-to-one from the property lines. Now, the internal  
24 building faces, since we have more than three sides, and we are  
25 also asking for relief as we are not meeting the one-to-one

1 requirements along those areas.

2 I think per OP's suggestion that we are going to  
3 make these very similar in character and in scale. If there are  
4 any additional questions, I would be happy to answer them.

5 VICE CHAIRMAN SOCKWELL: With regard to the roof  
6 structure setbacks, what is the specific difference between one-  
7 to-one and what you provide in your worst case where there is a  
8 setback?

9 MR. HOLLAND: Well, the worst --

10 VICE CHAIRMAN SOCKWELL: The worst case would be  
11 that stair tower, I assume.

12 MR. HOLLAND: The worst case would be where it is  
13 abutting along the face. I just want to mention one other thing,  
14 and what we have done from an urban design standpoint is that we  
15 have also set the building back 10 feet from along New Jersey  
16 Avenue.

17 So for the first 90 feet, we are abutting along the  
18 property line, which is this line right there, and then we are  
19 setting the building back 10 feet, and even from that 10 feet --  
20 well, we are measuring from the property line over.

21 So, for example, I would call this number three,  
22 description number three, and from the property line back, we are  
23 27 feet, 8 inches. In reference to your question of which is the  
24 worst case, it is the second one which I described for the hotel,  
25 which basically abuts the face of the building in the back.

1 VICE CHAIRMAN SOCKWELL: What is your setback in  
2 the front?

3 MR. HOLLAND: In the front, from the front face of  
4 the building --

5 VICE CHAIRMAN SOCKWELL: Is it a one-to-one, or is  
6 it --

7 MR. HOLLAND: It is one-to-one. It is 18 foot 6  
8 inches, and if you want to go to the property line, it is another  
9 10 feet back.

10 VICE CHAIRMAN SOCKWELL: And it is no less than  
11 one-to-one from the street facade to the building in any case that  
12 I see?

13 MR. HOLLAND: That is correct.

14 VICE CHAIRMAN SOCKWELL: And the setback at 90 feet  
15 is a setback prescribed by code?

16 MR. HOLLAND: It is prescribed in the existing zone  
17 for residential as being 90 feet.

18 VICE CHAIRMAN SOCKWELL: Right.

19 MR. GLASGOW: Mr. Chairman, I think one point of  
20 clarification. That was the setback that we discussed with the  
21 Office of Planning. If there was no required setback, we could  
22 straight up 130 feet. They asked for a setback and we provided  
23 it.

24 VICE CHAIRMAN SOCKWELL: Okay. Any questions? If  
25 not, please continue.

1 MR. GLASGOW: Mr. Gang, have you completed your  
2 testimony?

3 MR. HOLLAND: Yes, I have.

4 MR. GLASGOW: All right. I would like to call the  
5 next witness, Mr. Richard Harps. Mr. Harps, would you please  
6 identify yourself for the record and proceed with your testimony.

7 MR. HARPS: Thank you, Mr. Glasgow. My name is  
8 Richard Harps, and I am the president of the real estate and  
9 consulting firm of Harps and Harps, Incorporated, 1111 - 14th  
10 Street, Northwest, Washington, D.C.

11 I was asked about a month ago to look at the  
12 feasibility if you will of developing residential uses on this  
13 site. As you know, it is in the receiving zone in the South  
14 Capitol area. It is an area that has been basically anticipated  
15 to be developed with commercial uses.

16 This is the only proposal that I am aware of, of a  
17 residential development in the entire area between South Capital  
18 Street and M Street, the freeway, and the public housing to the  
19 east.

20 It is a pioneering development that fits absolutely  
21 every definition of the word that I have ever heard of pioneer.  
22 When one looks -- oh, I'm sorry, I have copies of my report, and  
23 there are a couple of things in there that might make the Board's  
24 job just a hair easier.

25 VICE CHAIRMAN SOCKWELL: By the way, Mr. Harps,

1 your resume has been submitted to the record?

2 MR. HARPS: Certainly a number of times before.

3 VICE CHAIRMAN SOCKWELL: I did not -- not that you  
4 are not familiar to me.

5 MR. HARPS: It is attached to the report on page  
6 12.

7 VICE CHAIRMAN SOCKWELL: Thank you.

8 MR. HARPS: As Mr. Holland mentioned, there are  
9 going to be a tremendous number of new employees in the area.  
10 There are currently no residential uses for those employees to  
11 live in. Part of the problem that I think the city will have in  
12 that area is that most of the employees currently live in Maryland  
13 and Virginia.

14 If there is no supply for them to move into that  
15 area, then they clearly will continue to live in Maryland and  
16 Virginia. So the hope here is that once this thing is completed  
17 with all the new development that there will be sufficient numbers  
18 of those employees who would choose to live close to work.

19 That is one of the reasons that I still live in the  
20 City. I am with Mr. Holland, the commute is too much. If you  
21 will turn to page 5. Just to set the background, I have listed a  
22 number of the apartment rents in the southwest urban renewal area,  
23 and in and around downtown Washington.

24 Everyone is very familiar with the increase in  
25 prices in apartments, and rents which has occurred in the last --

1 really in the last 12 to 15 months. We have seen this huge  
2 explosion of rents. Interestingly enough, if you will look at the  
3 top two rents listed, Town Center Plaza, at 1001 - 3rd Street,  
4 Southwest, and Marina Towers, at 1100 - 16th Street.

5 Marina Towers was originally Town Center West. It  
6 is the mirror image of the Town Center Plaza Apartments, built at  
7 the same time by the same developer. Virtually identical  
8 buildings, and if I may, the neighborhood nearby property  
9 characteristics from a view standpoint.

10 And just look at the difference in the rentals  
11 between those two. If you look at Waterside Towers, which is  
12 further west, on 6th Street, which has views of the river, and  
13 then you look at the rentals for the properties on G Street and on  
14 4th Street. Again, look at the difference in rentals.

15 So you can see that the downtown properties at  
16 \$2,000 and \$3,000 per unit on rents are well above both Marina  
17 Towers and Waterside Towers. And really the closest thing to a  
18 location we have to this property is really Mount Vernon Plaza,  
19 where the rentals barely hit a thousand dollars.

20 Of course, none of those locations have the  
21 potential demand which this property has at this point. So there  
22 is a reasonably good chance that they are going to be able to  
23 achieve the kind of rents that they will need to make this  
24 property feasible.

25 With apartments, especially on a pioneer property,

1 you need a certain critical mass in order to get enough people  
2 there so that other people will want to live there. So the size  
3 of the project from the standpoint of the number of units is  
4 critically important.

5 You also need more units rather than less units in  
6 order to get economies of scale to keep the operating costs down.

7 A small 100 or 200 unit apartment complex costs an awful lot more  
8 per unit to operate than a 300 or 400 unit complex.

9 One concierge, and one person in the lobby, can  
10 handle either one of those buildings, and when you are dividing  
11 \$40,000 by 400 and \$40,000 by 200, that is a huge difference when  
12 that is added on a number of different factors.

13 I looked at the feasibility of this property from  
14 two standpoints; one on the market basis, and leasing everything  
15 out, rents would probably range between \$1.75 and \$2.00 a square  
16 foot. You would end up with a value that would be less than the  
17 cost of in the neighborhood, and that is explained a little bit  
18 further in Section 4, of about \$2,100,000.

19 So the costs would effectively exceed on market  
20 rents the value of the apartment complex by about \$2 million. The  
21 value of the land, of the 34,000 square feet of land allocated to  
22 the residential component, based on sales and asking prices for  
23 some of the prices on M Street that are currently on the market,  
24 is probably around \$15, \$16, or \$17 per FAR.

25 So, let's use \$15, a little on the lower end, so

1 that we don't inflate the numbers. That's put a land value on it  
2 at about \$3.4 million. So now we have a spread of \$5-1/2 million  
3 between what the land would be worth for, say, an office building,  
4 and what the land is worth under the apartment.

5 Clearly, that kind of spread cannot be accommodated  
6 by a normal, prudent market oriented, profit motivated, developer.

7 In this case, by using bond financing, and by being able to sell  
8 the tax credits -- and of course that means 20 percent affordable  
9 housing on the project, and it means that 20 percent of the units  
10 would be rented for significantly below the \$1.75 to \$2.00 a  
11 square foot, you are able to get that loss down, that differential  
12 between what the land is worth, and what the residual from the  
13 project is worth at \$2.00 on the market rents, to a hair over  
14 \$650,000.

15 It is still a loss at \$650,000. You get to a very  
16 small positive number if you project market rents at \$2.05 a foot.

17 Now, I will be honest with you. I am not good enough to tell you  
18 today whether market rents two years from now are going to be  
19 \$2.00 or \$2.05 a square foot.

20 I mean, right now, there is no indication down  
21 there that market rents are going to be anything because we have  
22 no comparables. So the \$2.00 a square foot is below what the  
23 downtown properties are currently getting.

24 You know, the newer downtown properties, such as  
25 The Lexington. It is a little below the LaTrobe, which is one of

1 the better buildings in Washington. It is certainly below the  
2 West End, but it is well above Mount Vernon Plaza at 930 M.

3 It is twice what they are getting at 200 K. Those  
4 are two of the newer properties that were built downtown during  
5 the last time that people built apartments in this city and up  
6 until the current time.

7 So this is a marginal deal, but it has got that  
8 little bit of positive spin on it, and so it is possible. The  
9 developers think that I am a little low on my rents and that's  
10 fine. That's why they are developers and I am an appraiser.

11 And if their numbers come through, it is a hair  
12 positive. But I just want you to notice that in no case is there  
13 any additional money left over to pay for any TDRs unfortunately.

14 The land value which I imputed to the site was based on a 6-1/2  
15 FAR site, on 34,000 square feet.

16 The residuals are based on the proposed 10 FAR  
17 building. If that number is negative, and clearly there is no  
18 additional money in the project to buy any additional land density  
19 from wherever you want to get it, and when you look at it from  
20 that standpoint, and when you realize -- and, Chip, please stop me  
21 when I get too far a field.

22 But when you look at it from the standpoint that  
23 the whole purpose of a receiving zone was to promote preferred  
24 uses, and some in the city, and generally downtown, but to promote  
25 preferred uses, here we have a site where they are going to put

1 the preferred use on the site.

2 It is not really feasible without the assistance  
3 somewhere, and part of the assistance is the bond financing and  
4 the sale of the tax credits. The other part of the assistance is  
5 being able to develop a site without having to buy, pay money, for  
6 additional TDRs, to fill up the gap between 6.5 and 10.

7 The Zoning Commission has already pretty much  
8 stated that the 10 FAR, 130 height limit, is appropriate for the  
9 area, because they made it a receiving area. If any cost is  
10 basically put on the TDR, that makes that spread even more  
11 negative, and at some point it gets negative enough that the  
12 developer goes back and says why are we bothering. We can build  
13 an office building here.

14 This would be a great thing for the city if in fact  
15 this thing goes forward. Now, if we get 300 residents down there,  
16 maybe all of a sudden we don't have another southwest, but we have  
17 another east end of Washington, another Pennsylvania corridor or  
18 whatever it is called this week.

19 I mean, I think it is very appropriate for the  
20 Board to approve this. Financially, the developer needs it, and  
21 financially they cannot, I do not believe, afford to pay for the  
22 TDRs. And that is what I was supposed to speak to. Thank you.

23 MR. GLASGOW: If there are any questions for Mr.  
24 Harps, or otherwise we will call the witness, Mr. Steven Sher.

25 VICE CHAIRMAN SOCKWELL: One quick question for Mr.

1 Harps. With regard to transferable development rights and the  
2 affordability of them at this point, from your projections, having  
3 looked conservatively at the financials that this building could  
4 generate if you were to look at a future that says that this  
5 building creates an excitement, along with the office  
6 infrastructure, and the 900,000 square feet that is supposed to be  
7 starting down at the 11th Street Bridge, this project as a mixed  
8 use type project could be a generator of other residential, as  
9 well as continued growth in the office infrastructure.

10 If you looked at it in a forward looking way, what  
11 would you say if it went and does exactly what it ought to do,  
12 what would you say it can do, and not necessarily from a financial  
13 standpoint, but from a catalytic standpoint?

14 MR. HARPS: I think from a catalytic standpoint, it  
15 could be phenomenal. I think if you get 300 or 400 people, or 600  
16 people, assuming that some of them will in fact be couples, and  
17 not singles, living down there -- and for one thing I am convinced  
18 that the city will pay more attention to that area from the  
19 standpoint of police and public safety, because now there would be  
20 residents.

21 It certainly can't hurt the city's plan, and  
22 hopefully they will start to plan to improve the public housing to  
23 the east, and they have already made some improvements. But there  
24 is a proposal, I believe, to move the school buses in the middle  
25 of Second Street, and that would help.

1           Certainly the city could do more. They could get  
2 rid of the trash storage, and DPW parking areas. I think long  
3 term that it would be very positive. I would like to correct one  
4 thing, Mr. Chairman, that you mentioned, and that was  
5 conservative.

6           The only thing that I was conservative about was  
7 the current land value at \$15. The \$2.00 a square foot that I  
8 used in the analysis is in my opinion in no way, shape, or form,  
9 or fashion, conservative. I have given every credit I could to  
10 the potential of this site.

11           VICE CHAIRMAN SOCKWELL: Well, I would say that if  
12 the comprehensive plan amendments had not put the central  
13 employment area through that stretch, we would not be talking  
14 about that number. We would be talking about a much lower number.

15           MR. HARPS: That's probably true.

16           VICE CHAIRMAN SOCKWELL: And so I think the number  
17 may have some conservatism built into it personally.

18           MR. HARPS: Okay.

19           VICE CHAIRMAN SOCKWELL: And I would like to  
20 announce that Council Member Ambrose, Sharon Ambrose, from the  
21 City Council, is sitting in the audience, and if she would like to  
22 speak to anything for this particular application, we would be  
23 more than happy to take her out of turn, as I know that she has a  
24 busy schedule.

25           COUNCILWOMAN AMBROSE: Thank you, Mr. Chairman. I

1 have submitted a letter in support of this project. I also want  
2 to say that I have testified before this body, HPRB, the Zoning  
3 Commission, I believe on every single project that has been  
4 ongoing for this Navy Yard, Southeast waterfront, development  
5 area.

6 It is the single, I think, most active development  
7 area in the city. I am convinced that as I said in my letter that  
8 this private sector investment in residential housing down there  
9 is going to make a significant difference.

10 I think it is on the edge. I think it is a  
11 commitment of money and enthusiasm, and most importantly,  
12 confidence in the area, that will not go unnoticed. In fact, I  
13 left my office not being able to take a call that I was receiving  
14 a call back actually from Tony Costa from GSA.

15 My fondest dream is to see mixed-use development on  
16 the Southeast Federal Center, to get housing actually right on the  
17 waterfront, and to have housing on this L'Fant vista street of New  
18 Jersey Avenue, I think goes a long way towards convincing even the  
19 Federal Government that there is potential for residential in this  
20 area.

21 So I urge you to grant the variances asked for in  
22 this project, to allow the project to go through, and without the  
23 variances, I am not entirely sure that it would be possible  
24 financially to make it work.

25 So, thank you very much for hearing me out of turn,

1 and again I am most enthusiastic about this project, and  
2 especially about the willingness of these investors to have  
3 confidence that residential will work down there.

4 VICE CHAIRMAN SOCKWELL: Well, I am sure that the  
5 south end of Ward 6 will be benefited by having the development of  
6 the waterfront not so discontinuous with everything else that is  
7 positive, and can be positive in that neighborhood.

8 And the waterfront certainly has been lacking and  
9 everything along major streets that have such development  
10 potential has been lacking, and now we seem to be getting there.

11 COUNCILWOMAN AMBROSE: That's right, and I think  
12 that this residential project, perhaps because of its size, is  
13 particularly abridge backed up to residential Capitol Hill. And I  
14 see it that way, and I think the developers see it that way, and I  
15 certainly will be working to promote it as such.

16 VICE CHAIRMAN SOCKWELL: Thank you for your  
17 remarks.

18 MR. GLASGOW: I would like to call the last  
19 witness, Mr. Steven Sher. Mr. Sher, would you please identify  
20 yourself for the record, and proceed with your testimony.

21 MR. SHER: Good afternoon, Mr. Chairman, and  
22 Members of the Board. For the record, my name is Steven E. Sher,  
23 and I have to stop and make sure that I say this right, the  
24 Director of Zoning and Land Use Services with the law firm of  
25 Holland and Knight, LLP.

1           The staff will provide to you a copy of my outline,  
2 and as is my usual custom, I will review it with you rather than  
3 go through it line by line. I think you have heard enough about  
4 where the site is, and what the surrounding area looks like, which  
5 is Roman Numerals 1 and 2 on page one.

6           On Roman Numeral 3 on page two describes the  
7 existing C-3-C zoning that applies to the site, and as has been  
8 stated before, that is a zone which ordinarily allows a maximum  
9 height of 90 feet, and a maximum FAR of 6-1/2.

10           But because this property is in the Capitol South  
11 receiving zone, with the acquisition of TDRs, the maximum height  
12 permitted is 130 feet. The maximum FAR is 10 if the site is  
13 allowed to go that height because of the width of New Jersey  
14 Avenue, which is 160 feet wide. The maximum height permitted here  
15 is 130, and the maximum FAR is 10.

16           I am now in the middle of page three, the proposed  
17 development. You have heard this before, too. It is a building  
18 that would have two uses; an apartment house of approximately 375  
19 rooms, and a hotel of approximately 170 rooms. The total gross  
20 floor area of approximately 464,000 feet, which is 9.65 FAR.

21           Overall, if you take those two components and  
22 divide them, you find that the apartment house is 10 FAR on its  
23 site, and the hotel is 8.72 FAR on its site. And again the  
24 overall height is 130 feet with that setback at the 90 foot level  
25 of 10 feet along New Jersey Avenue.

1           There are three areas of relief required from the  
2 board in order for this project to proceed as it is now proposed.

3           First is a variance from the residential recreation space  
4 requirement. What is required is 34,000 plus square feet, and  
5 what is proposed is about 15,000 square feet.

6           On the requirement to purchase TDRs, as you have  
7 heard described, it is not proposed to purchase the TDRs in order  
8 to build this site, and I am going to come back to that.

9           And the third area is the special exceptions for  
10 roof structures, basically to have more than one roof structure,  
11 and you heard Mr. Gang describe the location and the nature of the  
12 four that are up there, and to permit those roof structures not  
13 meet the one-to-one setback from the edge of the roof in all  
14 circumstances.

15           On page four, Roman Numeral 6, I have set forth the  
16 standards of the Zoning Act and the regulations as they relate to  
17 a variance. As to the residential recreation space, essentially  
18 what comes down here is the size of the building on the size of  
19 this lot, which effective means that you have to have 1.0 FAR  
20 equivalent devoted to a residential recreation space if you are to  
21 meet the requirement.

22           That would either require that a substantial amount  
23 of interior space would be devoted to recreational use, or you  
24 would otherwise have to reduce the size of the building so you  
25 could get down to the amount of space that you can provide.

1           You can see from the site plan that there is a  
2 limited amount of exterior space which can actually be devoted to  
3 residential recreation space, and given the necessity to provide a  
4 significant threshold of residential units, the critical mass, in  
5 order to make the project feasible, you are really in a position  
6 where you can't reduce the residential requirement.

7           So what we then have is a variance to bring that  
8 level down to what is proposed. In my view there would be no  
9 detriment to the public good. The building shares the  
10 recreational amenities with the adjoining hotel. There are other  
11 nearby recreational opportunities planned.

12           You have heard some discussion about the removal of  
13 the school bus parking that now exists between the two pieces of  
14 the Second Street right-of-way. And there has further been  
15 recognition by the City through the Office of Planning that this  
16 requirement for residential recreation space is probably too high,  
17 and should be adjusted for high density residential development.

18           It was a requirement that goes back to about 1978,  
19 and quite frankly, nobody has built enough residential development  
20 in commercial zones to prove that the requirement is not right.

21           But what is happening now is that as you look at  
22 what is involved here, the combination of the size of the  
23 building, and the requirement of the regulations creates the  
24 exceptional situation and the practical difficulty in meeting  
25 that, and proving that amount of space in meeting that

1 requirement.

2 With respect to the variance on transferable  
3 development rights or TDRs, what I would like to just spend a  
4 moment on is something that Mr. Harps started to talk about, which  
5 is what is the history asit relates to TDRs. Transferable  
6 development rights are earned essentially for two reasons.

7 One, you are either providing some preferred use  
8 within the downtown development district area, preferred use being  
9 a department store, a theater, or an apartment building; or,  
10 secondly, you are under-building on a site that has been  
11 designated historic.

12 So where the normal density would be either 8-1/2  
13 or 10 FAR, the historic regulations limit on-site development to  
14 six, and allow you to transfer the remainder somewhere else. And  
15 the assumption there is that commercial development will occur in  
16 these receiving zones.

17 Commercial development primarily being office  
18 buildings, and there are five receiving zones; New Downtown, East  
19 Capitol, South and North Capitol Street, and Southwest.

20 And it was assumed that in all of those places  
21 allowing an extra increment of commercial development would allow  
22 people to reach that higher level of development by going out and  
23 buying the TDRs earned from either preferred uses or under-  
24 building on historic sites.

25 But that the commercial development would then

1 leverage the preferred uses to be built downtown. What is  
2 happening here is that the otherwise preferred use is going to be  
3 built not there, but here on this site, in an area where current  
4 planning policies and current planning concepts, suggest that  
5 rather than seeing an all commercial area, which is what had been  
6 envisioned for years and years, and which the zoning had allowed  
7 for years and years.

8 And, in fact, the previous industrial zoning would  
9 not have allowed residential use. But we now have the medium high  
10 density commercial category shown on the comprehensive plan, the  
11 evolving concepts for the revised, or in the process of being  
12 revised, Southeast Federal Center Master Plan, to incorporate  
13 mixed use in there, all suggest that within this area which had  
14 previously been planned for and developed as commercial use,  
15 should not be considered to have mixed use.

16 And what is happening in this case is that you get  
17 that critical mass, and you get that number of units that provides  
18 enough people in there in order to begin to make a difference in  
19 that area.

20 You can go up north, and west on New Jersey Avenue,  
21 and go under the freeway, and get to the southern end of the  
22 Capitol Hill neighborhood. You can go east and go on the other  
23 side of Second Street, and you get to the Arthur Kapler projects.

24  
25 There is residential in there, but this site -- and

1 I like Mr. Harps' use of the term pioneering. Right now there is  
2 nothing in the way of residential amenity in this particular sub-  
3 area, within the Capitol South area.

4 You put an apartment building of this size and  
5 magnitude down there, and you begin to create the linkages between  
6 residential to the north and residential to the east, the water  
7 front to the south, and it begins to make some sense for the City.

8 As to the requirements for the special exceptions  
9 for the roof structure, essentially this derives out of the nature  
10 of the proposed uses, i.e., apartment house and hotel.

11 If this were an office building, and if this were a  
12 square block building on this site, you probably would not be here  
13 for roof structures, because you would not have the cut-out of  
14 quartz to provide light and air to the units that would face on  
15 the inside of that building.

16 The configuration of double-loaded corridors for  
17 both apartments and hotels suggests that the width of that falls  
18 somewhere between 65 to 70 feet ideally for an apartment building,  
19 and maybe a little less than that for a hotel.

20 What that does is that it squeezes the place where  
21 you can put a roof structure on the roof. You need to have those  
22 penthouses to provide for stair and towers to the roof or elevator  
23 overrides for the two cooling tower areas that Mr. Gang talked  
24 about.

25 But if you have to set back not only from the

1 street side of the building, but also from the interior courtside,  
2 you just wind up not having a good place to put those facilities.

3 So what we need then is a variance to have -- well,  
4 not a variance, but a special exception to have the four separate  
5 roof structures. In theory, they could be connected, but what you  
6 then do is you have a screened wall connecting the four of them  
7 that adds significantly to the bulk on the top of the building  
8 when there is absolutely no reason to have it.

9 And then the other thing is not to have to provide  
10 that setback from the inside, and as Mr. Gang set forth earlier,  
11 we meet all of the required setbacks from the street sides, and  
12 given the places that you can see this building from, and the way  
13 that this is designed, you are not likely to notice the lack of a  
14 setback on the interior side.

15 I conclude, therefore, that the property is  
16 affected by exceptional conditions, and that the strict  
17 application of the regulations creates a practical difficulty, and  
18 that the variances can be granted without substantial detriment to  
19 any surrounding properties.

20 That approval of the application allowing a new  
21 apartment house would be a significant contribution to City policy  
22 of encouraging mixed use in this area, formerly devoted to and  
23 planned for all commercial buildings, and I would suggest to the  
24 board that the application should be granted.

25 VICE CHAIRMAN SOCKWELL: Board Members, questions?

1 (No audible response.)

2 VICE CHAIRMAN SOCKWELL: So, Mr. Sher, you believe  
3 that as a result of the preferred uses being placed in the  
4 "receiving zone" that the TDRs are somewhat mooted by the decision  
5 to place the more important principal use here, and not there, and  
6 that there should be some relief granted from the TDR issue on  
7 that basis as a variance?

8 MR. SHER: In a word, yes.

9 VICE CHAIRMAN SOCKWELL: Okay. I don't have  
10 another question for you.

11 MR. GLASGOW: Mr. Chairman, that concludes the  
12 direct presentation of the applicant.

13 VICE CHAIRMAN SOCKWELL: Then we should proceed to  
14 the Office of Planning Report, which would be again delivered by -  
15 -

16 MEMBER RENSHAW: Do we have a representative from  
17 6B?

18 VICE CHAIRMAN SOCKWELL: I don't know. Is there an  
19 ANC representative? Yes, of course. Mr. Simon.

20 (Brief Pause.)

21 MR. COCHRAN: For the record, my name is Steven  
22 Cochran, and I am with the Office of Planning. This is the site,  
23 and this is the southeast-southwest freeway, and New Jersey  
24 Avenue, and the Anacostia River down there, and the Capitol just  
25 at the top of the screen.

1           And an important thing is the pumping station down  
2 at the southeast-southwest Federal Center, which would form a  
3 vista from the Capitol for about, oh, 40 feet in height.

4           Okay. This is going to be a close-up of the site.  
5           We are looking at New Jersey Avenue here, and this is L Street,  
6 Southeast, and here we are at K Street, Southeast, and Second  
7 Street, Southeast.

8           Okay. This little notch that you see here is Lot  
9 19, the one that isn't included out of the entire square. So we  
10 have got a combination of warehouse uses here, and some vacant  
11 uses here, and the warehouses are also vacant.

12           So you are basically looking at the entire square,  
13 except for the 550 square foot convenience store in Lot 19 down  
14 here. Between Second and Canal, it is all public property. These  
15 horizontal bands that you see here are actually school buses.

16           The Office of Planning is in the long run certainly  
17 working to get the school buses removed and to have all of this  
18 returned to public space, and not necessarily as a canal, but  
19 certainly public open space. It was the site of the old canal  
20 that went down to the Navy Yard.

21           This is the South Capitol Street, Frederick Douglas  
22 Bridge, coming up in -- no. Yes, going up into South Capitol  
23 Street. Here we are looking at the Southeast Federal Center in  
24 through here, and the pumping station is here.

25           New Jersey Avenue goes on an angle about like this

1 up to the freeway. So you can see again that it is connecting  
2 Capitol Hill and we are looking at the Library of Congress complex  
3 up here, with the river.

4 Okay. This is the New Jersey Avenue coming down  
5 there, and the site again, K, New Jersey, L, and you can see some  
6 of the old factory buildings down here at the Southeast Federal  
7 Center, where the Office of Planning and the Mayor are certainly  
8 hoping to create that vibrant mixed-use community that we have all  
9 been talking about for the last year or more.

10 Say 20 if you go back to the original ANC/CP Report, and maybe  
11 even 30.

12 Okay. Now we are going to get into the actual  
13 ground level views. This is the view down New Jersey Avenue from  
14 Capitol Hill. We are looking at the Rayburn Building, and the  
15 parking garage being over here. This is the Capitol Hill  
16 Historic District.

17 The freeway is right about here at the crest of the  
18 hill, and beyond would be the Southeast Federal Center, and the  
19 site is going to be about four blocks down past the freeway on  
20 this side.

21 This is the freeway and the site is right over or  
22 right down in here, and past this large elm tree. We are looking  
23 south again towards the Anacostia River.

24 Here we are on the south side of the freeway.  
25 There is that Elm tree again, and you can just barely see some of

1 the Department of Public Works facilities in here. If you are as  
2 close to this screen as I am, you can actually see the fence that  
3 is fencing off Square 741 and the proposed site.

4 Again, the Southeast Federal Center, and the  
5 pumping station are down through there. Now, we are going to take  
6 a look at the one lot that is not in the project.

7 This is the convenience store in Square 19. The  
8 proposed building would go up somewhat above the screen here, and  
9 behind here, this area where you see the row houses, would be one  
10 floor high until you get to the facade of the apartment building  
11 itself on Second Street, which is right here, and that facade  
12 would start approximately here.

13 This wall and this wall define the alley that will  
14 be considered for closing by the City Council next week. We are  
15 looking at a close-up of the rear of Lot 19. This is a public  
16 alley, despite what it may appear to be. This again is the area  
17 that will be considered for closing next week.

18 And this would be the access to the applicant's  
19 proposed courtyard, and the loading docks for the hotel back in  
20 through here, and in the distance on the other side of this tree,  
21 you would see the rear end or the rear side of the corner of the  
22 hotel, and then the back of the New Jersey Avenue facade of the  
23 apartment building.

24 MR. HOOD: Mr. Chairman, may I just ask a question  
25 while we have this up?

1 VICE CHAIRMAN SOCKWELL: Yes.

2 MR. HOOD: Who is in the homes on the side, or the  
3 store, or whatever that is on the side?

4 MR. COCHRAN: I would have to ask the applicant. I  
5 believe they are vacant.

6 MR. HARPS: There is no -- everything on the block  
7 is vacant.

8 MR. HOOD: So those are vacant and nobody is being  
9 displaced?

10 MR. HARPS: It is all gone.

11 MR. HOOD: Nobody is in any of that?

12 MR. HARPS: None of that, except for Mr. Kim, who  
13 owns this building.

14 VICE CHAIRMAN SOCKWELL: If you can cut to more of  
15 the overview slides and perhaps eliminate some of the close-ups.  
16 You have given a good overview of the site. Specific frontages,  
17 like New Jersey Avenue, you may wish to discuss. But we could  
18 move along since there is no opposition.

19 MR. COCHRAN: Then I think that this would probably  
20 be the only one that might be worth looking at then.

21 This is a very, very schematic prospective looking  
22 down New Jersey Avenue, or looking up New Jersey Avenue, excuse  
23 me, towards the Capitol. And it just shows you where the setbacks  
24 would occur. Obviously the design that has been submitted to you  
25 is much more highly articulated than this.

1 But it does show you how well it would frame the  
2 Capitol, and in some ways it would help you to notice the freeway  
3 less by focusing your view on the Capitol.

4 One of the advantages of being on the -- of  
5 essentially the same opinion on the case as Mr. Sher and Mr.  
6 Glasgow is that you don't have much to say by the time that the  
7 Office of Planning gets up, and so I will be very brief.

8 We are are recommending very strongly that the  
9 board approve both of the special exceptions and both of the  
10 variances. There are a few clarifications that I would like to go  
11 through though.

12 For the special exception to have four penthouse  
13 structures rather than one, we clearly recommend that there be and  
14 that you allow for. I would like to ask Mr. Ganglow to show the  
15 overlay sheet that he and I discussed earlier today so that it is  
16 going to be part of the record.

17 While he is putting that up, I would like to  
18 mention that there are a couple of changes to the Office of  
19 Planning's written report here. On page four, we mentioned that  
20 we think that it would be appropriate for 3 out of the 4 roof  
21 structures to be at the 18 foot 6 inches height that the applicant  
22 proposed, and possibly that the fourth should also be at 18 foot 6  
23 inches, rather than 9 feet 6 inches.

24 We have since reviewed the refinements to the  
25 design, and we would now like to recommend that the fourth, that

1 is to say the southeast roof structure, be at 9 feet, 6 inches, as  
2 the applicant proposed, rather than as we suggested that we might  
3 be recommending on page four of the report.

4 The applicant has also clarified the location of  
5 that roof structure since the time of the submission, and we have  
6 no problem with how the applicant is showing the location of that  
7 roof structure.

8 VICE CHAIRMAN SOCKWELL: Would you explain that a  
9 little bit more fully.

10 MR. COCHRAN: Certainly. That smaller southeastern  
11 room structure, on some sheets in the application had been shown  
12 all the way to -- well, considerably more to the south, and off to  
13 the east. In other sheets, the applicant showed it all the way to  
14 the east at the party wall, but to the north, in the same position  
15 to the north as it is here on the overlay.

16 We questioned why the applicant couldn't meet the  
17 one-to-one setback from the party wall. Indeed, the applicant has  
18 revised the plans since the time we wrote our report to meet that  
19 one-to-one setback from the party wall, and has clarified that the  
20 sheets that showed the roof structure closer to the courtyard  
21 wall, and meeting the setback requirements from the south wall are  
22 in fact the correct sheets.

23 So what you see there is what we would like to see  
24 submitted as part of the record. When it comes to the shape of  
25 the structures, because we feel that these are going to be

1 prominent from the Capitol Hill skyline, although we hope that  
2 they won't be prominent for long because they will be joined by  
3 other structures, we still feel that it is important that they be  
4 designed as intricate parts of the building, which is why you are  
5 seeing the roof structures with more uniformity now to their  
6 shape, as opposed to the gigs and zags essentially that had been  
7 the plan.

8 I know that is a correct architectural term, thank  
9 you, that had been in the plans that were actually submitted.  
10 This is a more unified and harmonious design, and we would like  
11 this to be part of what you consider as part of the record.

12 VICE CHAIRMAN SOCKWELL: So they are a little less  
13 ziggy now, huh?

14 MR. COCHRAN: Absolutely.

15 (Laughter.)

16 MR. COCHRAN: The special exception to the location  
17 of the roof structures with respect to the setbacks, I believe Mr.  
18 Sher has covered that adequately. We feel that there is no harm  
19 to the public good and that sunlight, air, and elbow room would  
20 not be compromised by their not be set back from the interior  
21 courtyard.

22 When we look at the -- well, going on to page six.  
23 I believe that Ms. McCarthy has addressed most of these issues  
24 about why we would argue for relief from the requirements for  
25 recreation area in her discussion of Avalon Bay.

1           This is a somewhat similar kind of structure, with  
2 a somewhat similar market. I believe that you will likely see  
3 that the zoning commission will likely see recommendations in the  
4 not so distant future from the Office of Planning that would  
5 recommend that the requirements be changed so that we can get more  
6 housing in town, and I don't know that we need to go into that.

7           I would point out, however, that on page seven  
8 that we are making some -- we would recommend that you make some  
9 proviso for active recreation uses.

10           In the courtyard, we want to be sure that there are  
11 benches and equipment for the elderly, and for children, which is  
12 why we are recommending that 30 percent of the area that is  
13 landscaped be set aside for active recreation uses.

14           I would also like to note that we are recommending  
15 that you require the applicant to provide a secure exit from the  
16 Second Street side of the building so that in the future when that  
17 area where I showed you the buses are parked, when that area  
18 becomes public space and is accessible, and possible recreation  
19 space, that that be easily accessible from the apartment building  
20 through an entrance from Second Street and the applicant has  
21 agreed to that.

22           And then we also have a provision about keeping the  
23 party room and the meeting space open to the building residents at  
24 least six hours per month, and the applicant has agreed with that.

25           When it comes to the variance for the restriction

1 on the TDRs, I believe that Mr. Sher has gone into considerable  
2 detail, and we quite agree with him, on this. The concept behind  
3 the TDRs was to get a public good.

4 And we believe that in this instance that we are  
5 going to be getting a significant public good by allowing the  
6 applicant to go up to the full 130 feet without of the purchase of  
7 the TDRs, in an area where we would not otherwise be likely to get  
8 residential uses, and certainly not at this point in the  
9 marketplace.

10 Someone has to be the first one in, and we may well  
11 also be recommending in the future that the zoning commission  
12 consider allowing these heights for residential uses in TDR  
13 receiving zones, period.

14 Clearly, the zoning commission has already said  
15 implicitly that 130 is an appropriate height. It does not have a  
16 negative impact on the public. We are simply trying to come up  
17 with a mechanism whereby we can get publicly beneficial uses.

18 So in effect everything has already been set up by  
19 the zoning commission, and we are in agreement with the applicant  
20 that it is appropriate to grant a variance here in order to allow  
21 this public good to be achieved in this area.

22 To date, no TDRs have been purchased for  
23 residential uses since the inception of the provision. And the  
24 applicant has indicated -- and now we are moving on to page nine.

25 The applicant has indicated that the applicant will provide 20

1 percent of affordable housing units.

2 We would like to see the Board of Zoning Adjustment  
3 make that a requirement of the approval, as opposed to just  
4 indicating that they will try to do it.

5 And finally access to Lot 19. This is just as much  
6 a part of the alley closing application as this, but we want to be  
7 sure that the person who owns Lot 19 continues to have access to  
8 the rear of that lot, as long as that lot is not incorporated in  
9 this larger project.

10 So we hope that you will also require the applicant  
11 to agree in writing that the alley access remain unimpaired for  
12 Lot 19 by the granting of an easement, and clearly there would be  
13 a reciprocal obligation here that the applicant not block the  
14 alley entrance, nor the owner of Lot 19 block the alley entrance,  
15 so that each user would have access to it appropriately.

16 That concludes the Office of Planning report, and I  
17 am certainly open to questions.

18 MS. MCCARTHY: If I could just amplify one thing.  
19 We just want to be clear about the issue on TDRs, and that we are  
20 not saying that in every instance of residential construction in a  
21 receiving zone that that should in and of itself justify being  
22 able to get to the full height and density without the purchase of  
23 TDRs.

24 But we do think in this particular instance,  
25 because of the ripeness or lack of some of the market, or the

1 pioneering position of this project within the market, and because  
2 of its inclusion of the affordable housing units, we think that  
3 there is a clear justification in this particular instance, and  
4 the Office of Planning will continue to consider other cases on a  
5 case-by-case basis.

6 As I indicated to you the recreation requirements,  
7 we do think that there is ample justification for changing the  
8 rule on that, and on that we will proceed with the Zoning  
9 Commission for TDRs. At this point in time, we are looking at  
10 that more on a case by case basis.

11 VICE CHAIRMAN SOCKWELL: Thank you, Ms. McCarthy,  
12 and thank you, Mr. Cochran. Do we have any cross-examination of  
13 OP by the applicant?

14 MR. GLASGOW: Just one question of clarification.  
15 On page 9, it is my understanding that with respect to the 20  
16 percent of affordable housing, that is to be consistent with our  
17 agreement with D.C. FHA.

18 What we don't want to have a problem with the board  
19 is where we have one condition coming from BZA and a different  
20 condition from BZA obey, and then we can't get our financing.

21 So it is almost like some of those orders are like  
22 conditional, and it may well be as far as considering a condition  
23 that is consistent with the agreement with the BZA to obey, and  
24 that is how that condition should read for the 20 percent  
25 affordable housing.

1 VICE CHAIRMAN SOCKWELL: All right. Now, what does  
2 that mean specifically? In other words, are we dealing with a  
3 floating crap game, or are we specifically at some point that we  
4 know that we will be able to achieve?

5 MR. GLASGOW: Well, this residential project, with  
6 all the number of meetings that we have had, does not go forward  
7 without D.C. FHA financing. I mean, we have to have a bond, a  
8 D.C. FHA bond, or there is no apartment project.

9 VICE CHAIRMAN SOCKWELL: Are we saying that the 20  
10 percent affordable could drop to --

11 MR. GLASGOW: No. No, I just want to make sure  
12 that the terms and conditions of the provision of the 20 percent  
13 affordable housing, they are going to be controlled by the D.C.  
14 FHA bond financing.

15 If there is something written where there is some  
16 type of incongruity between BZA and what D.C. FHA does, we have a  
17 problem. We have a financing problem and we won't be able to go  
18 forward with the sale of the bonds.

19 So it is almost -- I guess it would be analagous to  
20 those situations where we have had an approval from BZA, and we  
21 have said, well, if the Historic Preservation Review Board  
22 approves X, then that is what the final design, if you will, of a  
23 building ends up being.

24 So it is going to be D.C. FHA that is going to  
25 control the terms and conditions of the 20 percent.

1                   DIRECTOR KRESS: I would just say that I think that  
2 the staff could work out that terminology if it were approved  
3 today in concept to make sure that we cover this the way that the  
4 applicant is requesting.

5                   MR. COCHRAN: Mr. Chairman, we had much the same --  
6 we had exactly the same question, and we discussed it with the  
7 applicant's legal counsel, which is why we came up with the  
8 phrasing that we did on page 9; to agree in writing to reserve at  
9 least 20 percent of the total number of apartment units for  
10 affordable housing in accordance with an agreement with D.C. FHA,  
11 so that both conditions are met.

12                   It is congruent with D.C. FHA, but we are still  
13 talking about at least 20 percent, and I believe that in my  
14 telephone conversation with the applicant's counsel that we were  
15 in agreement on that wording.

16                   VICE CHAIRMAN SOCKWELL: Well, I think that the  
17 difference between what OP is saying and what the applicant  
18 through his attorney is saying is that the 20 percent is expected  
19 to be a fixed number per Office of Planning.

20                   The 20 percent is a goal per the applicant's  
21 counsel, because it is dependent upon, and when one makes a  
22 conditioned response dependent upon, that means that the 20  
23 percent is not fixed. And OP is saying that at least 20 percent  
24 of the units will be affordable housing.

25                   MR. GLASGOW: All right.

1 VICE CHAIRMAN SOCKWELL: And you can't have it but  
2 one way; either we agree on 20 percent or we agree on D.C. FHA.

3 MR. GLASGOW: We can agree on the -- well, the 20  
4 percent is not the issue.

5 VICE CHAIRMAN SOCKWELL: Okay.

6 MR. GLASGOW: But the 20 percent may be subject to  
7 certain terms and conditions of D.C. FHA. I mean, that will be  
8 what they require.

9 VICE CHAIRMAN SOCKWELL: I understand, but what do  
10 you feel the potential ramifications of your position are, as  
11 opposed to what OP seems to be saying in a fairly explicit manner?

12 DIRECTOR KRESS: May I propose some wording? Could  
13 it be that it agrees in writing to reserve at least 20 percent of  
14 the total number of apartment units for affordable housing,  
15 subject to the terms and conditions of an agreement with D.C. FHA?

16 MR. GLASGOW: That is what we are talking about.

17 VICE CHAIRMAN SOCKWELL: All right. It sounds like  
18 the same thing to me, but in legal terms, Mr. Glasgow is running  
19 it through a screening process that I cannot do.

20 MR. GLASGOW: I think what she has talked about is  
21 acceptable to us.

22 VICE CHAIRMAN SOCKWELL: The subject to issue is  
23 the part. As Mr. Cochran is saying, in accordance with means that  
24 it is 20 percent and there will be an agreement. Subject to means  
25 that it is going to be based upon an agreement that we have 20

1 percent.

2 It is a different statement, and it is a  
3 specifically different meaning between what you are saying and  
4 what he is saying. And if you can explain why and where the  
5 difference lies, then maybe the Office of Planning will be able to  
6 accept it.

7 DIRECTOR KRESS: My proposal was to do both. It is  
8 to say that they agree in writing to reserve at least 20 percent  
9 of the total number of apartment units for affordable housing,  
10 subject to the terms and conditions --

11 VICE CHAIRMAN SOCKWELL: Subject to subordinates  
12 the 20 percent to the terms and conditions.

13 MR. COCHRAN: Right.

14 VICE CHAIRMAN SOCKWELL: And that's the problem.

15 MR. COCHRAN: In accordance with has them equal.  
16 The 20 percent is as equal as the D.C. FHA financing. Subject to  
17 means that we will give you 20 percent, subject to whatever D.C.  
18 FHA says.

19 And if they say, look, you can only finance this  
20 project with 15 percent affordable housing, then they would  
21 supersede the 20 percent is how I would read that phrase.

22 MR. GLASGOW: All right. We will go ahead and  
23 accept this, but we want to be in a position that if we have any  
24 issue with respect to D.C. FHA, we would have to have this  
25 corrected immediately, because we are going to be going to the

1 council, and getting our bonds, and trying to get all of that done  
2 before the end of the year.

3 VICE CHAIRMAN SOCKWELL: I think what you really  
4 want to do is have your 20 percent, something that people can hang  
5 their hats on.

6 MR. GLASGOW: We don't have any problem with that.  
7 The 20 percent is a given.

8 VICE CHAIRMAN SOCKWELL: I understand that, and if  
9 something comes up that affects the financing, and it can be  
10 handled with some administrative modification to the order, then -  
11 -

12 DIRECTOR KRESS: We do have the provision for minor  
13 modifications.

14 MR. GLASGOW: That's fine.

15 VICE CHAIRMAN SOCKWELL: Yes. So, it is not going  
16 to be 8 percent or 9 percent because D.C. FHA said something. If  
17 it is 19.5 percent, or something like that, then the Office of  
18 Planning, seeing the reasoning for it, and wanting such a project  
19 to go through should it be approved, would probably be able to  
20 accept a negotiated settlement that is out of your control.

21 But they don't want to be in a position where the  
22 negotiated settlement is out of their control.

23 MR. GLASGOW: Right. We will accept the condition.  
24 We have stated what our concern is.

25 VICE CHAIRMAN SOCKWELL: I understand.

1 MR. GLASGOW: We are trying to get this project  
2 through like lighting.

3 VICE CHAIRMAN SOCKWELL: And I believe that we have  
4 -- if you accept what the staff has recommended, I believe that we  
5 have a procedure whereby we can make an adjustment based on  
6 something that would be out of your control, or might be out of  
7 your control.

8 But we want to feel that we are at a point that we  
9 can look at, and taste, and smell, and that's all that we can ask  
10 for when there is a financing issue that has not been finalized.  
11 But we want to know where you are.

12 MR. GLASGOW: Well, the 20 percent is not the  
13 issue. That is not a problem.

14 VICE CHAIRMAN SOCKWELL: Okay. Mr. Cochran, is  
15 that satisfactory where we stand now?

16 MR. COCHRAN: That is satisfactory.

17 VICE CHAIRMAN SOCKWELL: Thank you. All right.  
18 Then we would go -- if there are no more questions of the OP  
19 report, do we have Advisory Neighborhood Commission Member  
20 Gottlieb Simon?

21 MR. SIMON: Thank you, Mr. Chairman. It is indeed  
22 a pleasure to appear before you today. You know, there are  
23 certain bodies that have preferences about where parties sit.  
24 That said, my name is Gottlieb Simon. I am the executive director  
25 for Advisory Neighborhood Commission 6B.

1           And the Board has received the ANC's report, but I  
2 am not sure that you have had a chance to examine it very  
3 carefully since we got it to you as late as we did. It is not too  
4 long, and I will try to compress it as we go along. As you have  
5 heard, there are three issues of relief that are being requested  
6 today.

7           The first one, and the one in which the ANC spent  
8 the most time on was the TDR. The applicant has indicated that  
9 the cost of purchasing the TDRs would make it too costly to  
10 develop the apartment building.

11           Therefore, they are asking for increased height  
12 without having to purchase the TDRs. The Commission is satisfied  
13 that the production of housing, particularly where it includes  
14 some affordable housing, warrants consideration of this request.

15           And parenthetically I would indicate to you, and  
16 remind you perhaps, that ANC-6B has been a great champion of  
17 housing in our ANC area, and the relationship of housing is of  
18 paramount concern.

19           However, the applicant has provided, or did provide  
20 at the time that the Commission considered this, no formal  
21 evidence that the cost of TDRs would be prohibitive.

22           Indeed, the applicant had provided no information  
23 whatsoever on the cost of the TDR, and so the Commission raised  
24 the question is there a point at which the cost could be absorbed  
25 and beyond which it could not be.

1           In other words, must the requirement be waived  
2 completely, or would a partial waiver be appropriate. In effect,  
3 the applicant is asking for an imputed subsidy. Such a subsidy  
4 can be provided for the special purpose of providing new housing.

5           It would be wrong to provide this exceptional  
6 benefit, however, if the applicant later changed his mind and  
7 decided to make the entire building an extended stay facility.

8           The Commission has seen apartment buildings on  
9 Capitol Hill redeveloped in this manner and does not wish to see a  
10 repetition on this site. The second area of relief had to do with  
11 residential recreation space. The applicant is asking to be  
12 relieved of this requirement, again without formal documentation,  
13 because the imposition of the full requirement would make it  
14 difficult to develop the housing.

15           The third area are the multiple roofs setback. The  
16 applicant persuasively maintains that the application of this  
17 requirement is impractical, unnecessary, and also costly.

18           The fourth area of concern or interest of the  
19 Commission has to do with the public benefits. In response to  
20 Commission concerns, the applicant noted several ways in which the  
21 project would provide public benefits.

22           The applicant presented a letter from Donohoe  
23 Construction saying that Donohoe would look to the neighborhood  
24 first to fill construction jobs. In addition, the applicant said  
25 that a letter would be submitted later committing the hotel

1 operation to sign a first source agreement.

2 Finally, the applicant agreed to undertake a  
3 marketing program to make nearby low income housing residents  
4 aware of the project's housing opportunities.

5 The Commission therefore voted six to zero at its  
6 properly noticed meeting of September 12th to support this  
7 application on two conditions. First, that the applicant should  
8 provide the BZA with an economic analysis that shows whether the  
9 project needs a complete waiver or only a partial waiver of the  
10 TDR requirement.

11 And, second, that the BZA impose a provision that  
12 would ensure that the entire apartment building stays a true  
13 residential use and not later a hotel use or extended stay  
14 facility use. And that is the Commission's report.

15 VICE CHAIRMAN SOCKWELL: Mr. Simon, would you say  
16 that Mr. Harps analysis is in general the response to your first -  
17 - to the ANC's first requirement to some degree?

18 MR. SIMON: I would say that his response -- that  
19 his testimony is highly responsive to the Commission's concerns.

20 VICE CHAIRMAN SOCKWELL: And, second, the ANC  
21 wishes that we put some kind of prohibition on a conversion?

22 MR. SIMON: Correct.

23 VICE CHAIRMAN SOCKWELL: Okay. Thank you.  
24 Questions?

25 MEMBER RENSHAW: Yes. Mr. Simon, was there

1 anything that you heard today that would alter the Commission's  
2 opinion?

3 MR. SIMON: Well, I would say that we received much  
4 more information on the economic status of the project than the  
5 Commission had before. I don't know to what extent that would  
6 have changed the Commission's precise vote, and I will tell you  
7 why.

8 And that is because on another project in this  
9 area, the Commission reviewed considerable financial data, only to  
10 discover when we had the opportunity to sit down and do an  
11 independent analysis, that as a matter of fact the numbers, which  
12 looked fine on paper, did not really add up.

13 And so that was a matter of great concern to the  
14 Commission, and why it isn't in effect saying we would like  
15 developers as a general rule, as a general procedure, and as a  
16 regular requirement, provide data that can be clarified.

17 MEMBER RENSHAW: In my ANC area, we are very  
18 sensitive to rooftop structures, and we are getting some mini-  
19 high-rise buildings. One of the issues that we have talked about  
20 is this business of cell towers on roof-tops. Did your Commission  
21 discuss this in a public meeting, and did you discuss it with  
22 the developer?

23 MR. SIMON: We did not discuss cell towers. That  
24 was not brought up on our part.

25 MEMBER RENSHAW: Or antennas of any --

1 MR. SIMON: Antennas? No. No.

2 MEMBER RENSHAW: Or satellite dishes, or anything  
3 like that, because that is part of what we call the garbage that  
4 is placed on top of buildings, and it is viewable, seeable, and  
5 there is some concern about the prominence of the rooftop  
6 structures from the Capitol Hill skyline that was mentioned today.

7 MR. SIMON: Yes. Well, I can assure you that those  
8 kinds of things would be of great concern in most of the ANC-6B  
9 area, which is a historic district.

10 We don't really have that many residential  
11 buildings of such height that it has become a concern in our area.

12 But the simple answer to your question is that that was not a  
13 topic of discussion.

14 MEMBER RENSHAW: But it is a concern in general?

15 MR. SIMON: In general.

16 MEMBER RENSHAW: Thank you.

17 VICE CHAIRMAN SOCKWELL: If I might say that one of  
18 the issues on roof structures is generally whether or not they are  
19 unified or separated, and again based on the shapes of buildings  
20 and the locations of core services, roof structures often wish to  
21 be where they deserve to be by that technical functional  
22 relationship.

23 The fact that this development has pushed the roof  
24 structures back to a one-to-one relationship with the exterior  
25 facade makes them more relevant to the condition of the average

1 single bulk mass office building, where they are always pushed  
2 into the center of the structure.

3 In this case, if they impact anything, they will  
4 impact this sunlight going into the core and not anything else.  
5 And I think that they are sensitively placed personally. I don't  
6 seem to have a real problem with them.

7 But had they been pushed to the exterior of the  
8 facade, it would have certainly to me presented a different  
9 problem for potential approval.

10 MR. SIMON: I believe the earlier testimony also  
11 indicted that they could have been connected in a artificial  
12 sense, and that seemed not to do anything other than to satisfy  
13 the technical requirements.

14 VICE CHAIRMAN SOCKWELL: We have been through that  
15 on previous projects, and not before this board, but through our  
16 office, and actually with the assistance of attorneys in this  
17 room, we have worked out situations where the false walls and  
18 connections, which really serve no purpose except to make a  
19 feature that isn't real look like it is real from one view, where  
20 it is almost like a false movie set.

21 You have got a front door and you walk out the  
22 back, and trip into the grass. So I think that they have done a  
23 good job on this from a roof structure standpoint.

24 MEMBER RENSHAW: Well, I would just say, Mr.  
25 Sockwell, Chairman Sockwell, that this business of antennas and

1 rooftop structures seem to catch up with the neighborhood by  
2 surprise. And we have seen it in my neighborhood where all of a  
3 sudden a permit was issued for 12 antenna on a building, and it  
4 was out of the blue.

5 And we have asked for information, which we have  
6 not received yet. So I am just stating and suggesting that we  
7 have some kind of an arrangement where any of these antennas or  
8 satellite dishes, or additional rooftop structures that are added,  
9 be done so in consultation with the ANC. I think that's fair.

10 MR. HOOD: I had a quick question for Mr. Simon.

11 VICE CHAIRMAN SOCKWELL: Yes.

12 MR. HOOD: Again, I want to go back to the  
13 comments of the Chair. You feel sufficient enough that you can  
14 speak for the Commissioners, even though I know that you serve as  
15 the executive director, that they do not need to review. That if  
16 this is voted upon today, that they do not need to review Mr.  
17 Harps submission?

18 MR. SIMON: What the Commission did in that regard  
19 was to say that we think that the representation of economic  
20 difficulty requires a degree of review and analysis that we are  
21 unable to provide either because of our experience, or because of  
22 the data that we have in front of us. And, therefore, we would  
23 recommend that the BZA do that.

24 VICE CHAIRMAN SOCKWELL: All right. Thank you.

25 MR. SIMON: I might if I could also comment that

1 you raised a question about residential displacement, and by and  
2 large that has already occurred.

3 VICE CHAIRMAN SOCKWELL: All right. Any more  
4 questions for Mr. Simon? Is there any cross-examination by the  
5 applicant of the Advisory Neighborhood Commission representative?

6 MR. GLASGOW: None.

7 VICE CHAIRMAN SOCKWELL: All right. Then having  
8 your ANC's quorum and vote six to nothing -- six for and none  
9 against, with the conditions, we will give the ANC report the  
10 great weight that it deserves.

11 MR. SIMON: Thank you, Mr. Sockwell.

12 VICE CHAIRMAN SOCKWELL: Thank you. Are there  
13 parties or persons in support of the application who wish to  
14 speak? How many are there of you? One. Going once, going  
15 twice; please come forward. Thank you.

16 DR. WILSON: Thank you, Mr. Chairman. For the  
17 record, I am Dr. Christina Wilson. I am in charge of public  
18 programs and adult education at the National Building Museum. I  
19 also an a architectural historian, and I am a Capitol Hill  
20 resident.

21 My house is about 10 blocks, 8 to 10 blocks from  
22 the site that is being considered this afternoon. The address is  
23 323 C Street, Southeast. I am here today to express my  
24 overwhelming and very strong support for this project for a  
25 variety of reasons.

1 I think it will have tremendous benefit not only to  
2 the greater Southeast Federal Center, which has been the focus of  
3 the discussion today, but also my neighborhood, the Capitol Hill  
4 neighborhood, and the City as a whole.

5 Let me first emphasize to you and reiterate the  
6 important need for housing in this part of the City. As you know,  
7 there has been a tremendous increase in real estate value and in  
8 demand for housing, and Capitol Hill is one of the foremost  
9 neighborhoods in this respect.

10 What is happening now is that many houses that were  
11 turned into apartments in the '50s and '60s by absentee landlords  
12 who lived elsewhere, are being returned to single family houses.  
13 I have done this.

14 My husband and I bought a house that was carved  
15 into three apartments, and returned it to a single family house.  
16 So even though the house was uninhabitable when we purchased it,  
17 we took potentially three units off the market, and now we only  
18 have one, which is our basement apartment rental.

19 This trend is happening throughout the City, but it  
20 is especially happening on The Hill, and this trend is reaching  
21 further and further from the Capitol itself in the historic  
22 district, and further east toward the Barney Circle neighborhood.

23 So actually in the short term the number of rental  
24 units and residential units, especially for single people, is  
25 dropping. So it is putting even more pressure on people who wish

1 to live in or near this neighborhood to do so.

2 I think it is extremely important to remember the  
3 potential for the residents who live in this area, not just people  
4 who work at the Navy Yard. But remember that this site is a 10 to  
5 15 minute walk from the U.S. Capitol.

6 It could easily be a place where Hill staffers and  
7 Congressional staff, and the Library of Congress employees could  
8 live. And frankly as a neighborhood resident, I have grown a bit  
9 weary of the houses that are carved into apartments now that are  
10 occupied by Hill staffers, and that more resemble fraternity and  
11 sorority houses than they do residences for long term citizens.

12 I would much rather have apartment buildings like  
13 this occupied by professionals, but also well managed and well  
14 maintained, which I know is the plan of this corporation.

15 So that is of tremendous neighborhood benefit from  
16 that point of view. I would also like to remind you of the  
17 importance of bringing more residents to the City. The demand for  
18 housing is great.

19 Remember that the vacancy rate for residentials,  
20 and apartments in particular, is the lowest that it has been since  
21 World War II. So the City as a whole desperately needs  
22 residential units.

23 But this area does in particular, and this will fit  
24 in very well with Mayor Williams' initiative to bring 100,000  
25 people, 100,000 more people to the District of Columbia.

1                   Ultimately that means that it will increase the tax  
2 base, and it will improve City services, and that will contribute  
3 significantly to the City's long term revitalization.

4                   Remember, too, that the more residents who come to  
5 this part of town will attract more goods and services that will  
6 benefit everybody there. Most of my neighbors to get certain  
7 items have to go to Maryland or Virginia if they don't go all the  
8 way across town.

9                   And I would much rather those tax revenues be spent  
10 in the District than in Maryland or in Virginia. That's all I  
11 have to say. I just hope that you will strongly support this  
12 project, which I think is remarkable and extremely important.

13                   And, finally, I just want to add that the  
14 investors and the people responsible for this proactive in dealing  
15 with the community. They have come to community meetings, and  
16 they have reached out to us, and they should be commended not only  
17 for the pioneering nature of this project, but for the way that  
18 they have responded to and supported the neighborhood that they  
19 hope to soon occupy. Thank you.

20                   VICE CHAIRMAN SOCKWELL: Thank you very much, Dr.  
21 Wilson. Are there any questions from the board of this witness?

22                   (No audible response.)

23                   VICE CHAIRMAN SOCKWELL: Thank you then.

24                   DR. WILSON: Thank you, Mr. Chairman.

25                   VICE CHAIRMAN SOCKWELL: If there are no further

1 witnesses, and there are no witnesses, or no parties, or persons  
2 in opposition, then I would like for closing remarks to be  
3 delivered by the applicant.

4 MR. GLASGOW: The only closing remark that I have,  
5 Mr. Chairman, is that we are under some time constraints with  
6 respect to this project, and we would like to receive a bench  
7 decision if that is possible.

8 VICE CHAIRMAN SOCKWELL: My feeling about a bench  
9 decision in this particular case is that it is one of complex, if  
10 not somewhat complicated, issues, which need to be looked at in  
11 detail.

12 I believe that we should take the time to examine  
13 the testimony and the submitted documentation, Mr. Harps'  
14 information, among others, so that we are comfortable with the  
15 assertions by the applicant as well.

16 I think that we need to be cautious in proceeding  
17 in the TDR direction, and would want to look -- I would want the  
18 board to look at that to be sure that it understands fully what  
19 the ramifications are of decisions that relate to transferable  
20 development rights. And that we move quickly, but deliberately,  
21 to make the right decision.

22 MR. HOOD: Mr. Chairman, I, too, agree that if we  
23 make an error, let us error on the side of caution. While there  
24 is overwhelming support, I can tell you from this Commissioner's  
25 standpoint that so far I do like what I see.

1           It needs something to jump start that area, and so  
2 I would rather for us -- if we are going to make an error, let's  
3 error on the side of caution, and not just what we have in front  
4 of us, and let's move as expeditiously as possible.

5           VICE CHAIRMAN SOCKWELL: I believe housing is a  
6 linchpin of the development potential of the area, and there is  
7 room for a great deal of it. The first person in is always the  
8 one that has to take the greatest risk. That is, if nobody  
9 follows.

10           So if the water is warm, it is going to be  
11 wonderful, and we want to make sure that the water is warm, but  
12 that we take its temperature before we jump into the tub.

13           MEMBER RENSHAW: It was an excellent presentation  
14 by the developers today, and thank you for being interested in  
15 this part of Washington, D.C., which does very much need an  
16 encouragement to grow, and to be more beautiful than it is and  
17 more viable.

18           But I want to just in closing bring up one matter  
19 that was mentioned in the ANC report, and hope that the BZA will  
20 agree with me. That there is a suggestion by the ANC about the  
21 construction company saying that it would look to the neighborhood  
22 first to fill those construction jobs.

23           And also the applicants said that a letter would be  
24 submitted later committing the hotel operation to sign a first  
25 source agreement. That's excellent, but I would also like to push

1 it a little further that both the construction company and the  
2 hotel report back periodically -- maybe quarterly -- to the ANC on  
3 the number of neighborhood persons hired in those jobs.

4 I think that is very important, and while it is  
5 good to suggest, it is even better to get a report back on a  
6 deliverable. And if necessary both the hotel and the construction  
7 company may have to extend themselves on training programs, which  
8 would be a wonderful -- what shall I say, a wonderful push in the  
9 neighborhood. So if that could be done, I would like to encourage  
10 it very much.

11 DIRECTOR KRESS: I would just say that the next  
12 meeting is October 3rd. It could possibly -- well, September  
13 26th, if you wanted to look at trying to decide this next week,  
14 the case 16607 has told us that they may withdraw, which was the  
15 short case that was supposed to be in front of the GW campus plan.

16 There is a potential to have a special meeting to  
17 decide this the morning of September 26th. Otherwise, October 3rd  
18 is your regular public meeting. But that is quite a booked  
19 morning on all the decisions that you have to make, and that would  
20 be the normal place to add it.

21 MR. HOOD: May I make a suggestion? If it is not  
22 too late for the applicant and all parties involved, October 10th,  
23 and I am looking at the schedule, if we come in at nine o'clock.

24 DIRECTOR KRESS: October 10th happens to be a day  
25 that Commissioner Hood also is serving.

1 MR. HOOD: Well, not to mention that it was --

2 DIRECTOR KRESS: No, I just think it makes sense,  
3 because you are going to be here all day.

4 MR. HOOD: -- convenient for me.

5 MR. GLASGOW: Can I make one comment? We also are  
6 proceeding forward with an alley closing, and the alley closing  
7 hearing is going to be occurring September 26th, which is --

8 DIRECTOR KRESS: A week from today.

9 MR. GLASGOW: Yes, which dovetails well with the  
10 26th, because the next legislative session after that, we are  
11 going to be trying to get the alley closed before the end of this  
12 year. So, we would want to be able to take to the council October  
13 3rd the -- that they would be able to act on the alley closing.

14 VICE CHAIRMAN SOCKWELL: Well, you wouldn't be able  
15 to have an order by that time.

16 MR. GLASGOW: Yes, we know, but we could take them  
17 a decision. We could take Council Member Ambrose's decision of  
18 the board.

19 DIRECTOR KRESS: If you did a bench decision with  
20 conditions, we could potentially get an order that quickly.

21 VICE CHAIRMAN SOCKWELL: Well, I think the question  
22 is whether or not on a case that has complexities beyond just roof  
23 structure -- I mean, we are talking about setting a precedent with  
24 regard to the TDR issue, and I think that we should look at it.

25 And even if we delay one week so that the board

1 members can take back the information that has been gathered here  
2 today and go through it, we may be able to return a decision at  
3 the next meeting.

4 But I do not wish to proceed blindly into a  
5 decision on something that is as important as this particular one.

6 Your development means a great deal to the Navy Yard. It means a  
7 great deal to Ward 6, and it means a great deal to the core of  
8 Capitol Hill.

9 And in fact realistically it means a little bit to  
10 me because I live in Southwest just across the street sort of.  
11 But the issue is that we want to proceed with caution, as opposed  
12 to with direct speed, and I believe that you can certainly  
13 understand my concern that we be comfortable with what we do.

14 Because this TDR issue is not going to go away. It  
15 will continue to come up, especially in these emerging areas where  
16 transferable development rights have not proven to do what they  
17 may have been expected to do when these downtown development  
18 district issues came up initially.

19 So if we are going to jump start the community, we  
20 want to make sure that the board is on board before we hit the  
21 pedal.

22 MR. HOOD: Mr. Chair --

23 MR. GLASGOW: And I think that we are talking about  
24 the 26th as a potential date?

25 MR. HOOD: The 26th? If the 26th is suitable, Mr.

1 Chair, I will make it my priority to be here on the 26th.

2 VICE CHAIRMAN SOCKWELL: You would only need to  
3 stay long enough to perhaps --

4 MR. HOOD: Well, long enough may mean three hours,  
5 but yes.

6 (Laughter.)

7 VICE CHAIRMAN SOCKWELL: Well, not necessarily.  
8 Mr. Cochran has a statement.

9 MR. COCHRAN: The Office of Planning certainly  
10 understands your concerns that it set a precedent for TDRs, but I  
11 just wanted to emphasize for the office that we are looking at  
12 this as each case standing on its own merit.

13 VICE CHAIRMAN SOCKWELL: And I understood that from  
14 your testimony.

15 MR. COCHRAN: We certainly do not view t his as  
16 setting a precedent, and we would have no hesitation in a future  
17 case, even on New Jersey Avenue, recommending against a TDR if it  
18 should so be justified.

19 VICE CHAIRMAN SOCKWELL: And I understand that, but  
20 I am stating that for the board, which is different from the  
21 Office of Planning, we wish to be as aware of the TDR issue as --  
22 I have been involved with TDRs to some degree, both in California  
23 and here. So it is not new to me.

24 And I even have documentation that would help the  
25 board to understand the transferable development rights issue, and

1 I think the board needs to feel comfortable taking time to  
2 deliberate on its own with this particular issue. So we will  
3 decide this case on September 26th.

4 DIRECTOR KRESS: On September 26th, we will set a  
5 time for a public meeting. It can either be at 9:00 or 9:30,  
6 whatever your pleasure is.

7 MR. HOOD: Can we make it at nine o'clock?

8 VICE CHAIRMAN SOCKWELL: You just want everything  
9 to go your way don't you?

10 MR. HOOD: Well, so far it hasn't been and so I  
11 figured --

12 (Laughter.)

13 VICE CHAIRMAN SOCKWELL: Well, since mr. Hood,  
14 Chair of the Zoning Commission, has requested that he -- and I am  
15 merely sitting in, we will do it at nine o'clock if the rest of  
16 the board has no --

17 MR. HOOD: If that is okay with Commissioner  
18 Renshaw. I mean, you know, 9:30 is --

19 MEMBER RENSHAW: Do I have a voice or what?

20 VICE CHAIRMAN SOCKWELL: I understand.

21 MR. HOOD: Well, 9:30 is fine. I will do it at  
22 9:30.

23 VICE CHAIRMAN SOCKWELL: No, nine o'clock is fine.

24 MR. HOOD: You guys come in every week. So 9:30 is  
25 fine.

1 VICE CHAIRMAN SOCKWELL: No, nine o'clock is just  
2 fine.

3 MR. HOOD: Now we can't agree on that.

4 VICE CHAIRMAN SOCKWELL: That's all right.

5 (Laughter.)

6 DIRECTOR KRESS: Ms. Renshaw, would you break the  
7 tie.

8 VICE CHAIRMAN SOCKWELL: We will do it at 9:00 a.m.

9 MEMBER RENSHAW: I'll break the time and make it  
10 9:15.

11 VICE CHAIRMAN SOCKWELL: Okay. I knew it. All  
12 right. Thank you very much.

13 MS. BAILEY: Mr. Chairman, was there a submission?  
14 Mrs. Renshaw had mentioned something coming in. Was there a  
15 submission to come in on this from the applicant?

16 VICE CHAIRMAN SOCKWELL: Their findings of fact  
17 would probably be coming in at some point, but I doubt that they  
18 would have that prepared by next week. I mean, if you are running  
19 a little shorthanded, let me know. All right. Mr. Simon, please  
20 come to the microphone, please.

21 MR. SIMON: Mr. Chairman, Mrs. Renshaw was making  
22 reference to letters that the applicant said would be forthcoming;  
23 a letter from the hotel operator with regard to the first source  
24 agreement perhaps, and so to respond to Ms. Bailey's question  
25 about was there anything else coming.

1 VICE CHAIRMAN SOCKWELL: Okay.

2 DIRECTOR KRESS: We don't really need that if you  
3 decide that is a condition, Ms. Renshaw. We can write that, and  
4 we often do, regarding the zoning commission. Most orders do have  
5 that in it.

6 MEMBER RENSHAW: All right.

7 DIRECTOR KRESS: So we do have -- we can do that  
8 without any additional submissions.

9 VICE CHAIRMAN SOCKWELL: And I want to clarify one  
10 thing which was part of, I think, the ANC letter. Are we talking  
11 about Donohoe Construction or Donohue Construction?

12 MR. GLASGOW: Donohoe.

13 VICE CHAIRMAN SOCKWELL: Thank you.

14 MR. SIMON: Thank you.

15 VICE CHAIRMAN SOCKWELL: All right. Then unless  
16 there is some other issue to discuss, then we can proceed to the  
17 next case, and we will see some of you bright and early at 9:15  
18 next week. Thank you.

19 MR. GLASGOW: Thank you very much.

20 VICE CHAIRMAN SOCKWELL: The next case, and the  
21 last case of the day, will be the application of the Public  
22 Welfare Foundation, Inc., case number 16602.

23 MS. BAILEY: The application of The Public Welfare  
24 Foundation, Inc., pursuant to 11 DCMR 3104.1 for a special  
25 exception under Section 214, to use a parking lot to service the

1 customers and employees of the store in an R-4 District at  
2 premises 932 - 12th Street, Northwest, Square 274, Lots 71 through  
3 75.

4 All those wishing to testify, would you please  
5 stand and raise your right hand.

6 (All witnesses were sworn.)

7 MS. BAILEY: Members of the Board, with this case,  
8 you do have a report from the Department of Public Works. The  
9 affidavit and all other requirements have been filed timely. We  
10 did not find a report or did not see a report filed from ANC-1B.

11 There is a previous order on this site, Number  
12 14574. This case is now ready for you and for the applicant to  
13 discuss with the Board.

14 MR. SZEGEDY-MASZAK: Good afternoon, Mr. Chairman.

15 VICE CHAIRMAN SOCKWELL: Give me just a second,  
16 please.

17 DIRECTOR KRESS: We have just received the ANC-1B's  
18 report and it is being handed out for you. We do need to waive  
19 that to allow it in.

20 VICE CHAIRMAN SOCKWELL: I move that we waive the  
21 rules to admit the advisory neighborhood commission 1B report.

22 MEMBER RENSHAW: I second.

23 MR. HOOD: I second.

24 VICE CHAIRMAN SOCKWELL: All in favor?

25 MR. HOOD: Aye.

1 MEMBER RENSHAW: Aye.

2 VICE CHAIRMAN SOCKWELL: Aye.

3 VICE CHAIRMAN SOCKWELL: All right. I think we are  
4 all here now. Do we have all of the handouts? You may proceed.

5 DIRECTOR KRESS: There is one more handout that is  
6 going to be coming from --

7 VICE CHAIRMAN SOCKWELL: We will wait for just one  
8 more.

9 DIRECTOR KRESS: Well, I don't think you need to  
10 hold up. It is from a council person in support.

11 VICE CHAIRMAN SOCKWELL: That's fine. Please  
12 proceed.

13 MR. SZEGEDY-MASZAK: Good afternoon, Mr. Chairman,  
14 and Mr. Hood. Ms. Renshaw, how are you? My name is Peter  
15 Szegedy-Maszak, and I am special counsel in real estate, land use,  
16 and historic preservation, at the law firm of Arnold and Porter.

17 I am counsel for The Public Welfare Foundatoin, the  
18 applicant in this case. I am joined today by my colleague, Nathan  
19 Gross, who is the director of zoning services at Arnold & Porter,  
20 and whom, Mr. Chairman, has been qualified before as an expert  
21 witness in land use, and I would request that also today.

22 VICE CHAIRMAN SOCKWELL: That's fine. We are quite  
23 familiar with Mr. Gross.

24 MR. SZEGEDY-MASZAK: Mr. Chairman, in the interest  
25 of time, I didn't know if the board has had an opportunity to read

1 the application and the prehearing statement, and would simply  
2 like me to proffer the testimony, and then leave it open for any  
3 questions you may have.

4 VICE CHAIRMAN SOCKWELL: Yes, I think that the  
5 entire board has had an opportunity to read the material. And are  
6 there any persons or organizations in opposition to this case  
7 present?

8 MR. SZEGEDY-MASZAK: No, sir.

9 VICE CHAIRMAN SOCKWELL: All right. Then I think -  
10 -

11 MR. SZEGEDY-MASZAK: Well, Mr. Chairman, just one -  
12 - we have or we are blessed with Mr. Lawrence Guyot here from the  
13 ANC to speak in favor of the application.

14 VICE CHAIRMAN SOCKWELL: Okay. I look for  
15 opposition in order to determine the extent to which we may be  
16 able to abbreviate your testimony and the testimony of your  
17 witnesses so that we may move the case along.

18 So you may begin, and if you hit the salient  
19 points, I think we are all fairly familiar with the case, and we  
20 will question you as needed.

21 MR. SZEGEDY-MASZAK: Absolutely. Thank you, Mr.  
22 Chairman, very much. This hearing is on application 16602 by The  
23 Public Welfare Foundation for a special exception under 11 DCMR  
24 214 and 3104.1.

25 This special exception request is necessary to

1 allow the applicant to provide 24 accessory parking spaces for us  
2 of employees and visitors to the offices of the applicant.

3 The proposed accessory parking site is zoned R-4  
4 and is located at 932 Twelfth Street, Northwest, Square 274, Lot  
5 71 through 75. The 24 parking spaces will be accessory to the  
6 applicant's headquarters operation located in the True Reformer  
7 Building at 12 U Street.

8 The applicant owns all fo the real property that is  
9 the subject of the application. The accessory parking lot will be  
10 separated only by a public alley from the True Reformer Building.

11 As noted in our application, this property has been used in the  
12 past for parking purposes for a prior retail use.

13 That accessory parking lot was approved by this  
14 board in March of 1987. That order has lapsed, and the retail use  
15 has also lapsed. The True Reformer Building, Mr. Chairman, is a  
16 designated local landmark, and is on the District's inventory of  
17 historic sites.

18 Both the True Reformer Building and the proposed  
19 parking lot are within the greater U Street historic district.  
20 The Historic Preservation Review Board has jurisdiction over new  
21 construction, and therefore has jurisdiction over the parking lot.

22 We spoke yesterday with the staff person from the  
23 Historic Preservation Review Board, Mr. Steve Calcutt, who  
24 aedvised us that he had no objection whatsoever to the parking lot  
25 design, and would request that this case be placed on the HPRB's

1 summary consent calendar for one of its next two meetings.

2 We also received notice from the zoning  
3 administrator that as a historic landmark the True Reformer  
4 Building has no parking requirement under 11 DCMR 2100.5.

5 Nonetheless, the applicant still seeks approval of  
6 this special exception for its parking in the interests of  
7 maintaining community relations and in the interests of abiding  
8 fully with the zoning regulations of the District of Columbia.

9 The accessory parking lot will be exclusively used  
10 by the employees of The Public Welfare Foundation and visitors to  
11 their offices. The accessory spaces are intended to strictly  
12 limit, as well as alleviate, any potential for overflow parking on  
13 neighborhood streets due to the reoccupancy and restoration of the  
14 landmark building.

15 Our evidence will show that the proposed accessory  
16 parking spaces fully comply with the applicable special exceptions  
17 standards in 11 DCMR, Section 214 and Section 2303. Section 214.1  
18 authorizes the board to approve a special exception to provide as a  
19 special exception, quote, accessory passenger or automobile  
20 parking spaces elsewhere than on the same lot, or part of a lot on  
21 which the main use is permitted, subject to 11 DCMR 3104.1, and  
22 the conditions specified in Sections 214.2 and .8.

23 Our witnesses today are, and who are next to me,  
24 are Mr. Larry Kressley, who is the executive director of The  
25 Public Welfare Foundation; and I proffer that Mr. Kressley will

1 testify regarding the background and purposes of The Public  
2 Welfare Foundation, its planned use of their former building and  
3 headquarters, the need for the accessory parking for employee and  
4 visitor parking, and the extensive community outreach process that  
5 the foundation engaged in to provide community participation in  
6 the planning process.

7 Mr. Kressley does have a statement that he will  
8 submit to the record, but I proffer that that will be his  
9 testimony.

10 Our land use consultant, the very experienced Nate  
11 Gross, will present the planning and zoning analysis for the  
12 proposed accessory parking lot, and I proffer that Mr. Gross will  
13 show that a accessory parking lot is fully compatible with Section  
14 214.2 to 214.8 of the zoning regulations.

15 We are also joined very happily by Mr. Kent  
16 MacDonald from Sworg and Associates, and Mr. MacDonald will  
17 present the plans and accessory parking lot, and indicate  
18 compliance with the relevant physical and area requirements in  
19 Section 2303 of the zoning regulations.

20 And I proffer that Mr. MacDonald's testimony will  
21 show complete compliance with the project and with Section 2303.  
22 I also proffer that the proposed accessory parking space or lot  
23 use is entirely consistent with the criteria in 3104.1 in the  
24 following ways.

25 It is consistent with the intent of the zoning

1 regulations to enhance compatibility between adjoining commercial  
2 and residential zoned districts, and will not tend to adversely  
3 affect the use of neighboring property.

4 Second, the accessory parking spaces will provide  
5 necessary and convenient off-street parking to serve employees and  
6 visitors to the Offices of The Public Welfare Foundation, and  
7 substantially minimize the use of available on-street parking.

8 Finally, the proposed accessory parking spaces are  
9 both located and appropriately buffered from nearby properties in  
10 such a manner that will minimize any adverse effects, especially  
11 traffic related, on the surrounding neighborhood.

12 Mr. Chairman, I proffer that testimony on behalf of  
13 our witnesses, and I would also proffer that Mr. Guyot would  
14 testify that the board -- that the ANC voted 9 to 0 in favor of  
15 this application, and that Mr. Guyot is very satisfied with the  
16 community outreach efforts that were undertaken by the applicant.

17 So, Mr. Chairman, if you have questions to any of  
18 the panel, otherwise we would stand on our evidentiary proffer.

19 VICE CHAIRMAN SOCKWELL: Thank you. You may  
20 proceed with your first witness.

21 MR. SZEGEDY-MASZAK: Mr. Chairman, I would like to  
22 introduce to you Mr. Larry Kressley, the executive director of The  
23 Public Welfare Foundation.

24 MR. KRESSLEY: Good afternoon, Mr. Chairman, and  
25 Members of the Board.

1 VICE CHAIRMAN SOCKWELL: Good afternoon.

2 MR. KRESSLEY: My name is Larry Kressley, and I  
3 reside in the District at 2500 Q Street, Northwest, and I am the  
4 executive director of The Public Welfare Foundation, and I am very  
5 pleased to have this opportunity to talk with you this afternoon  
6 about our application now before the board.

7 This application is an important step in the Public  
8 Welfare Foundation's efforts to restore the historic True Reformer  
9 Building to its status as a vibrant community landmark.  
10 Throughout this project, we have worked closely with the  
11 neighborhood residents and elected officials in a collaborative  
12 effort, gathering their ideas and opinions, and sharing our plans  
13 and our progress.

14 The True Reformer was one of the first in the  
15 nation to be designed, financed, and built by the African-American  
16 community. It is a powerful symbol of preservice, determination,  
17 and accomplishment, in the face of great obstacles.

18 Dedicated in 1903, the building was originally the  
19 home of the True Reformers, a benevolent organization dedicated to  
20 to improving the lives of African-Americans at the turn of the  
21 century. Later, it became the home of the Metropolitan Police  
22 Boys Club, and of the First Separate Battalion, the African-  
23 American Branch of the D.C. National Guard.

24 It was also the site of early concerts by Duke  
25 Ellington. Sadly, however, The True Reformer Building has been

1 sitting empty and deteriorating for most of the past 10 years.  
2 But come next January, the True Reformer Building will again be  
3 home to community-building, and neighborhood activities, and to  
4 the arts.

5 Once renovation is completed, the building will  
6 serve as the headquarters of the Public Welfare Foundation.  
7 Founded in 1947 by newspaper published Charles Edward Marsh, the  
8 foundation is committed to supporting organizations that use the  
9 strategy of service, advocacy, and empowerment.

10 Inherent in this strategy is the belief that people  
11 who are most affected by a problem must be involved in developing  
12 solutions to address it. The Foundation distributes \$19.5 million  
13 each year to grass roots and community based groups in the United  
14 States and around the world.

15 The foundation supports a number of projects here  
16 in the District of Columbia, including a fund for Washington's  
17 Children and Youth, which last year distributed over \$500,000 to  
18 grass roots organizations in Anacostia.

19 We plan to make a substantial portion of the True  
20 Reformer Building, including the original two level auditorium,  
21 available for use by neighborhood groups and local non-profit  
22 organizations. We anticipate the building coming to life during  
23 the day, and in the evening, too, with community meetings and  
24 events, concerts, and other performances.

25 The continued use of the land immediately behind

1 the building for parking will allow our staff to have secure,  
2 accessible parking parking, and help to alleviate parking  
3 congestion in the surrounding blocks.

4 During our ongoing discussions with the community about  
5 their hopes for this building and the surrounding neighborhood, we  
6 heard time and again the importance of bring new daytime users  
7 into this community.

8 By relocating our operations to the True Reformer  
9 Building, we will bring a daytime staff of about 30 to the U  
10 Street corridor. But our ability to do that is partially  
11 dependent upon providing those staff members and people who visit  
12 us with accessible parking.

13 Our work with the community on this project began  
14 well before construction was underway, and at no time in our  
15 public meetings did residents express concerns about our use of  
16 the lots directly behind the building for parking.

17 But the advising neighborhood commission and the  
18 Cardozo-Shaw neighborhood association passed unanimous resolutions  
19 in support of the project, and our application for tax exempt  
20 revenue bonds.

21 Ward One Council Member Jim Graham, the ANC Chair,  
22 Laurence Guyot, and ANC vice chair Glenn Melcher, who represents  
23 our neighborhood on the ANC, have all been active participants in  
24 the community process, and are supporters of the renovation of the  
25 True Reformer Building as our headquarters.

1                   In addition to the accessory parking site  
2 immediately to the south of the True Reformer Building, the  
3 property we acquired last year includes additional land in the  
4 interior of the square block.

5                   These lots were approved some years ago for  
6 development of a parking lot that was never built. Once the site  
7 of alley dwellings, this land has stood empty for many years,  
8 serving as an ad hoc parking lot and garbage dump.

9                   If the application before you today is approved, we  
10 will not need this land for parking, and we plan to devote it to  
11 more useful community purpose.

12                   We held several community meetings to discuss the  
13 project and gather community opinions, and also conducted a survey  
14 of residents about their preferences for the use of that land. An  
15 overview of our community outreach activities and the results of  
16 the survey are included in these information packets that we  
17 prepared for you.

18                   After an extensive community process, our board of  
19 directors recently decided to pursue a development plan with the  
20 MANNA Community Development Corporation, a non-profit community  
21 development group, INSAW, and under that plan the MANNA CDC would  
22 develop 12 affordable housing units and a park, both uses that  
23 received strong community support in our meetings and our survey.

24                   Once again, Chairman Sockwell, and members of the  
25 Board, I thank you for consideration of our application.

1 VICE CHAIRMAN SOCKWELL: Thank you. Are there any  
2 questions of Mr. Kressley at this time?

3 MEMBER RENSHAW: Yes, I have one question. You  
4 state, Mr. Kressley, on page 2 about your staff of 30. I am in  
5 the second paragraph down.

6 MR. KRESSLEY: Yes.

7 MEMBER RENSHAW: And our ability to do that is  
8 partially dependent on providing those staff members with  
9 accessible parking. Aren't you very close to a Metro?

10 MR. KRESSLEY: Yes.

11 MEMBER RENSHAW: How close?

12 MR. KRESSLEY: We are on the same block as the  
13 Metro.

14 MEMBER RENSHAW: That's what I thought. I would  
15 like to know what you are doing or going to do to encourage Metro  
16 use?

17 MR. KRESSLEY: It is a real priority for me. I  
18 mean, I have had staff discussions, and I think that one of our  
19 six major program initiative areas at the foundation is the  
20 environment. I want our building and all of us who use it to be  
21 environmentally friendly.

22 A number of us walk to work. I walk from 2500 Q  
23 Street down to the Watergate where we currently are, and I plan to  
24 do that once we are in the building. So we are working on  
25 personnel policies to encourage Metro use and other ways of

1 getting to work, so that not everyone is going to be driving.

2 Now, there are some people -- one of my colleagues  
3 lives in Fredericksburg, and a number of people live out in the  
4 suburbs beyond the Metro. So it is an issue that needs to be  
5 sorted out. In addition to staff parking, this will also be  
6 parking for people who come for meetings with the staff at the  
7 foundation.

8 MEMBER RENSHAW: And also for those events at night  
9 that you are going to have?

10 MR. KRESSLEY: Yes.

11 MEMBER RENSHAW: I just didn't want this to be an  
12 excuse for your staff who live in relatively close proximity to  
13 the building to say, oh, I am going to drive over there when they  
14 could take the Metro.

15 MR. KRESSLEY: And I couldn't agree with you more.  
16 Thank you.

17 VICE CHAIRMAN SOCKWELL: I have a couple of  
18 questions, but I think I can hold them until after the architect  
19 makes his presentation.

20 MR. SZEGEDY-MASZAK: Thank you, sir, and Ms.  
21 Renshaw, thank you for those comments. Thank you. I now introduce  
22 my colleague, Nate Gross, as our land use expert.

23 MR. GROSS: Thank you. Mr. Chairman and Members of  
24 the Board, I am Nate Gross, and I reside at 4424 Alton Place,  
25 Northwest, in the City. I would like to simply briefly describe

1 the immediately surrounding land use pattern, and then run through  
2 the special exception criteria found in Section 214 of the zoning  
3 regulations.

4 If you could turn to the map following the first  
5 blue divider sheet, I think this will show up clearly. You will  
6 see through the middle of the page, in an east-western direction,  
7 the U Street corridor, which on the south frontage is zoned C-2-A,  
8 arts, and down to the alley in the square, where you see the red  
9 and blue buildings marked. Am I going too fast?

10 VICE CHAIRMAN SOCKWELL: I believe we may be  
11 missing a colored copy somewhere, but we are working with you.

12 MR. GROSS: The red indicates the True Reformer  
13 Building, and then the commercial zoning, the C-2-A zoning, goes  
14 down to the alley. The blue indicated is the accessory parking  
15 lot.

16 The land use pattern on the rest of the block is if  
17 you go west along U Street from the True Reformer Building, you  
18 have 2 or 3 small commercial uses, and then you have the Metro  
19 Rail Station at the corner of 13th and U Street.

20 And going down 13th and across T Street, you have  
21 existing road dwellings. There may be a few apartments. South of  
22 the proposed parking lot is vacant residential property, and as  
23 you can see, there is a parking lot across the street from the  
24 proposed parking area.

25 And then turning to the standards in Section 214.2

1 -- well, starting with 214.2, the accessory parking spaces shall  
2 be in an open area or in an underground garage, and in this case  
3 we are in an open area that has been vacant since the previously  
4 approved parking lot basically went into disuse.

5 Subsection .3 and .4 both deal with assuring that  
6 the distance of the accessory parking to the commercial building,  
7 and the commercial zone is very close. The parking spaces must be  
8 in their entirety within 200 feet of the area to which they are an  
9 accessory, and in this case they are entirely within 105 feet.

10 Basically, the alley is 15.75 feet wide, and then  
11 the dimensions of the proposed accessory parking lot are 89 feet  
12 by 90 feet, easily qualifying for the 200 feet distance. And then  
13 separated only by an alley or immediately contiguous, and in this  
14 case it is only separated by an alley.

15 And, point five, the provisions in Section 23 will  
16 be dealt with by Mr. MacDonald, the architect. Section 214.6,  
17 which is probably the heart of the regulation -- well, no, I'm  
18 sorry. It shall be economically impractical or unsafe to locate  
19 accessory parking within the principal building.

20 The principal building, of course, is the True  
21 Reformer Building. In this case the reason that it is impractical  
22 is the True Reformer Building covers 100 percent of its lot, and  
23 it is an extremely important historic landmark, which is being  
24 restored fully according to the Secretary of the Interior  
25 standards for restoration.

1                   So it would be unsightly and destructive to  
2 historic preservation values to do some demolition or arrangements  
3 to provide parking there.

4                   VICE CHAIRMAN SOCKWELL:   And, Mr. Gross, I think  
5 that the True Reformer was solicited and was granted a waiver of  
6 parking and loading as a designated historic landmark.

7                   MR. GROSS:   That is correct, Mr. Sockwell, yes.  
8 And so this is simply provided for the convenience of The Public  
9 Welfare Foundation and also to protect the neighborhood from undue  
10 overspill parking.

11                   And 214.7 is the provision that I was thinking of,  
12 where it will be so located and designed so that they don't become  
13 objectionable to the neighborhood.   I believe there are several  
14 points here.

15                   First, the access to the parking lot will continue  
16 to be from the existing alley.   So there will be no new driveway.  
17 That alley, in turn, is located right at the edge of the  
18 commercial strips.   So that's as close as possible to the  
19 commercial area.

20                   As Mr. MacDonald will show, there will be fencing  
21 and landscape screening that will also buffer neighboring  
22 property, and as parking for visitors and employees, this will be  
23 mainly for daytime use.   There might be some evening use, but at  
24 the time when nearby residents are home in their homes, the  
25 parking lot will be very little used.

1                   And so there will be no adverse effects there. And  
2 finally it is not a large parking lot. Hopefully it is about the  
3 right size to alleviate overspill parking without being such a big  
4 parking lot that draws any additional traffic.

5                   So we believe that it imposes no adverse effect on  
6 the immediate area, and as has been mentioned previously, the  
7 Department of Public Works report is in support, and that  
8 concludes my comments, Mr. Chairman.

9                   VICE CHAIRMAN SOCKWELL: Thank you. I will hold my  
10 questions until after the architect.

11                   MR. SZEGEDY-MASZAK: Mr. Chairman, the other thing  
12 in addition to Mr. Gross regarding the buffering and the  
13 construction of the parking lot, that is also subject to historic  
14 preservation review standards for compatibility with the landmark.

15                   So you can rest assured that the buffering will be  
16 very, very compatible with the existing landmark and with what the  
17 neighborhood also wants.

18                   VICE CHAIRMAN SOCKWELL: Thank you.

19                   MR. SZEGEDY-MASZAK: So I now introduce Kent  
20 MacDonald, Mr. Chairman, to explain the physical dimensions and  
21 the area requirements for the lot.

22                   MR. MACDONALD: Good afternoon. My name is Kent  
23 MacDonald, and I am a project architect and project manager at  
24 Sorg and Associates. We are the architects for the renovation of  
25 the True Reformer Building, and for the construction of the

1 parking lot.

2 I reside at 1444 Swan Street, in the District.

3 I would like to introduce you or orient you first  
4 with some visual aids. This is the True Reformer Building,  
5 looking from the northeast. This is U Street going along this  
6 way, and 12th Street is on the left. The parking lot is directly  
7 behind the building on the left.

8 Some other photographs of the parking lot. This is  
9 from the south, along 12th Street, looking towards the True  
10 Reformer Building. And here this is again on 12th Street, looking  
11 south, and this is the edge of the parking lot. You will see that  
12 the parking lot is set back.

13 The street right-of-way is quite large. The  
14 existing parking lot, and indeed the future parking lot, will  
15 align with the line of the True Reformer Building, which is on  
16 the street right-of-way.

17 This is looking from the interior, from the  
18 southwest, and again looking towards 12th Street, and with some  
19 houses in the background, and the parking lot, and you see the  
20 existing chain linked fence in the front. And the True Reformer  
21 Building in the background.

22 Directly to the west of the project, of the parking  
23 lot, is a public alley, and then beyond that alley you will see  
24 here at the corner is a ventilating building for the Metro.

25 Over here, standing on 12th Street and looking, you

1 will see this grassy slope, and then at the edge of the park, the  
2 existing parking lot, and then again the Ramada Building in the  
3 background beyond that public alley.

4 And then way in the background on 11th Street, the  
5 backs of some townhouses. This is the site plan for the parking  
6 lot, and the landscape plan you have in your pamphlets or  
7 booklets. There is an existing survey, and a more -- there is  
8 some dimension plans, and also some details of the fencing and the  
9 lights that we are intending to use.

10 Again, to orient you, this is 12th Street, and  
11 north is up, and the True Reformer Building sits here. This is  
12 the public alley that defines the commercial district to the  
13 north.

14 This again in here is the outline of the existing  
15 parking lot. To the south are 5 or 6 vacant lots currently. This  
16 is the public alley running north/south, and then the Ramada  
17 Building is to the west.

18 There is some additional vacant lots down here just  
19 below the Ramada Building, and then again beyond is the large  
20 parking area that you see in the vicinity map.

21 This is the line of the True Reformer Building  
22 here, and you can see that the parking lot is kept back well  
23 behind it. There is a substantial -- I would say at least 15 feet  
24 or so of landscaping between the curb and the property line, and  
25 even beyond that another six feet of landscaping even before the

1 parking lot begins.

2 To address some of the issues in Section 2303, the  
3 parking lot will be completely paved with asphalt, and a portion  
4 will be concrete. There is an existing sewer inlet that will be  
5 renovated here. The existing parking lot is rather degraded.

6 There will be a substantial border of landscaping.

7 I mentioned six feet on the front, and three feet on both the  
8 west and the south. The only other structure on the lot will be a  
9 trash enclosure that faces the alley.

10 The entire parking lot will be fenced. Along the  
11 front will be a series of steel picket fencing, with brick pylons,  
12 and again you see details of that in the exhibit.

13 Around the south and west will be again a steel  
14 fence with board in-fills so that it will be opaque. And then  
15 along the southern border, this is a residential zone here that  
16 will be -- this will be planted with shrubbery here.

17 On the northern portion, facing the public alley,  
18 there will be a sliding gate, which will either be -- we are not  
19 quite sure whether it is going to be card activated or key  
20 activated. So this will be a secured parking lot.

21 Again, this is the trash encloser. As for the  
22 entrance, there is a rear entrance to the True Reformer Building  
23 in the southwest corner, and there will also be cameras on the  
24 alley. People from the inside of the building will be able to  
25 look out and see if it is safe to go out into the alley, et

1 cetera.

2           There is landscaping again, and this is a landscape  
3 plan that has been devised the Fixed Studio of Georgetown, and we  
4 are calling for red beds along the -- in this slope in front of  
5 the parking lot, and several ink berry and cherry laurels along  
6 the front.

7           Again, these steel pickets, you would be able to  
8 see through them, but then the shrubbery will be in front, and  
9 there will be two maple trees in the interior of the lot. This  
10 planted area conforms to the five percent rule for landscaping  
11 within a parking lot.

12           VICE CHAIRMAN SOCKWELL: Which planted area?

13           MR. MACDONALD: These two dots, the two maple  
14 trees. And I think --

15           MEMBER RENSHAW: Is there any guardhouse or --

16           MR. MACDONALD: No, there is no guardhouse.

17           MEMBER RENSHAW: No enclosure?

18           MR. MACDONALD: Again, it is a key or a card  
19 activated. People would be able to drive up here and from the  
20 left side of their window stick a card in and the gate would slide  
21 open and then they can proceed in.

22           There will be lighting, and again there is a detail  
23 of the light fixtures that we intend to use. There are four light  
24 fixtures on the perimeter here, and again they face into the  
25 parking lot, and they will not shine into any other areas. I

1 think that concludes my presentation. I will take questions if  
2 you have any.

3 VICE CHAIRMAN SOCKWELL: All right. I have just a  
4 few questions. One is regarding the parking lot and the number of  
5 cars. The drawings that I have seen tend to show, first, 19 cars,  
6 with the original parking lot, and the description in the  
7 prehearing statement mentioned 25 cars, and Mr. Kressley spoke, I  
8 believe, to 24 cars, or one of you spoke to 24 cars.

9 And I really was not able to tell by looking at the  
10 drawing whether you could effectively achieve a D.C. spec parking  
11 for 24 cars; and since it is not valet, it needs to meet a parking  
12 lot specification.

13 MR. MACDONALD: Well, we have tandem parking.  
14 There are 24 spaces. One of them is a handicapped space in this  
15 corner, with the five foot side space. And then there are a  
16 combination of some compacts and standard spaces within.

17 There are tandem spaces in the back, and because  
18 this was an excessory use, we felt that we could eschew the other  
19 regulations for the standard spaces.

20 VICE CHAIRMAN SOCKWELL: I think that although the  
21 spaces are not required, because assuming that you have executed  
22 the waiver of parking and loading, a copy of which should be  
23 submitted to the file for our record here, the parking lot, if it  
24 is not attended, would still want to meet D.C. specifications for  
25 a parking lot.

1           And additional cars that you provide as piggy back  
2 or tandem parked cars are really -- they are not relevant to the  
3 striped lot condition. They are relevant to the way that you use  
4 it. But I believe that you are probably more effectively going to  
5 be able to provide in real terms 19 self-parked automobiles.

6           Once your people start banging into each other  
7 around there, they are going to want to keep to 19. I don't  
8 believe that you can get that through the City with a number of  
9 24 if it is a self-park lot. So I think you are going to have to  
10 come to grips with a number, and I am not sure what number we are  
11 approving.

12           Well, we actually don't have to approve any number  
13 because it is not required parking. But we can approve the use.

14           MR. MACDONALD: Okay.

15           VICE CHAIRMAN SOCKWELL: And you can determine it,  
16 but I didn't see 24 cars in there. The next question is -- okay.  
17 We have taken care of two of my questions.

18           MR. GROSS: And just since you brought it up, I  
19 have the parking waiver form here with me now, and I will submit  
20 it to the staff.

21           VICE CHAIRMAN SOCKWELL: And Mr. Nyarku can make a  
22 copy of it for the record. The other question I have actually is  
23 regarding the auditorium. You stated that it was a two level  
24 auditorium. I assume that you mean that it is an auditorium with  
25 balcony?

1 MR. KRESSLEY: Yes, there is a mezzanine. It is  
2 the original John Langford, who is the architect. It is his  
3 original design that we have maintained.

4 VICE CHAIRMAN SOCKWELL: So it has been restored to  
5 its near original condition?

6 MR. KRESSLEY: Yes, sir. We put the stage back,  
7 which was missing, and it so it will be a full scale auditorium.

8 VICE CHAIRMAN SOCKWELL: Is it proscenium, with a  
9 modified proscenium stage?

10 MR. KRESSLEY: Yes, it does have a stage, but there  
11 is no fixed seating, and I should point out that in the mezzanine  
12 that the mezzanine will not be an auditorium use. The mezzanine  
13 space will be actually a library for The Public Welfare  
14 Foundation.

15 That will not be a public space. People will be  
16 able to look over the balcony, but they will not be -- the public  
17 will not be using the mezzanine space.

18 VICE CHAIRMAN SOCKWELL: Okay. How many seats will  
19 it accommodate?

20 MR. KRESSLEY: I believe it is about slightly under  
21 400, 375. I would have to check the record.

22 VICE CHAIRMAN SOCKWELL: And although the parking  
23 appears not to be made available to the general community  
24 surrounding your project when you are not there, which means that  
25 it will -- that apparently the lot is probably just overgrown and

1 maybe people are parking there as they choose now.

2 It won't be a lot that is available for either  
3 evening parking for events, and the developing retail/commercial  
4 nightlife that is in the community there. Nor will it be  
5 available to the residents of the surrounding neighborhood when  
6 you are not there.

7 MR. KRESSLEY: That's right.

8 VICE CHAIRMAN SOCKWELL: Is that correct?

9 MR. KRESSLEY: That's correct, yes.

10 VICE CHAIRMAN SOCKWELL: So I guess that is --  
11 well, with the increase in need for parking, is the True Reformer  
12 -- well, not the True Reformer, but is the foundation going to be  
13 a six day a week, or just a five day a week operation, with of  
14 course those like yourself will be coming in on Saturday and  
15 Sunday just to make sure that everything is okay.

16 MR. KRESSLEY: Yes. We want to have as much use of  
17 the auditorium and there is also a community meeting room on the  
18 first floor, and we also want to make the board room available to  
19 community groups who need a more formal setting. So we want to  
20 use it as much as the need in the community dictates.

21 VICE CHAIRMAN SOCKWELL: You said there is a board  
22 room on the first floor?

23 MR. KRESSLEY: Yes, and at the 12th and U corner,  
24 there is -- I guess it would seat about 20 people -- another  
25 community meeting room for smaller events.

1 VICE CHAIRMAN SOCKWELL: All right. I just  
2 wondered. So the facilities will be made available to the public,  
3 and there is probably going to be some kind of television camera,  
4 remote access, for people coming to various functions or something  
5 like that for the lot.

6 MR. KRESSLEY: That's right.

7 VICE CHAIRMAN SOCKWELL: All right. I really don't  
8 have any additional questions, except if you have any.

9 MR. HOOD: I have just one quick question on that.  
10 The building is going to be accessible to the community. My  
11 question is are they also going be able to get into the parking  
12 lot?

13 MR. KRESSLEY: Into the parking lot that we are  
14 discussing today?

15 MR. HOOD: Right.

16 MR. KRESSLEY: Generally it is going to be used for  
17 day use.

18 MR. HOOD: Day use only?

19 MR. KRESSLEY: Yes.

20 MR. HOOD: And in your deliberations with the  
21 community did you let them know that they would not have  
22 accessibility to the parking lot? Was that ever discussed?

23 MR. KRESSLEY: Well, I don't know that it ever came  
24 up. And again I think it needs to be -- it is one of those issues  
25 that need to be worked out. I mean, certainly if a group wanted

1 to use the building at night, and they said that they were  
2 bringing young people in from Prince George's County in six cars  
3 for a concert or something, I think our inclination, and our sort  
4 of community-mindedness would make sure that somebody would be  
5 there to let them in to use the immediate parking.

6 But I do have to say that even though January is  
7 just looming ahead of us, there are details of the building's use  
8 in general that we have not work out yet.

9 VICE CHAIRMAN SOCKWELL: And with new projects like  
10 the Bohemian Caverans not far away, there will be a need for valet  
11 parking for attendees to those jazz concerts and dinner, and  
12 people may want to rent your lot in the evenings for that use.

13 And if that is a potential to help keep the streets  
14 available for as much parking as possible, I would think that that  
15 might be a viable, albeit small, financial gain for you. It might  
16 have some potential and you might want to consider it.

17 MR. KRESSLEY: Absolutely, and again I would want  
18 to work with neighborhood groups and Mr. Guyot, and ANC, and  
19 others around the parking issues. You know, we are in a position  
20 not to as an endowed foundation, while we see all of our resources  
21 as precious, we are not in a position to have to look for income  
22 streams.

23 So I think that if it is in the community interests  
24 to do something like valet parking, our motivation would be the  
25 community interest rather than the income.

1 VICE CHAIRMAN SOCKWELL: You just want to make  
2 enough money so that in case they bang into this gate it can be  
3 repaired and not a cost to you.

4 MR. KRESSLEY: That's right.

5 VICE CHAIRMAN SOCKWELL: I think that I have no  
6 more questions. If the board members have no more questions, I  
7 would want to move to Mr. Guyot's report from the ANC.

8 MR. GUYOT: Mr. Chairman, it is a pleasure. Mr.  
9 Kressley did not tell you a couple of things about himself. When  
10 they purchased this building, along with it came \$500,000 from a  
11 community development block grant.

12 Uncharacteristically, it was returned to the City.

13 I think that begins to give you an idea of why ANC is so  
14 enthusiastic in its support of what we are doing here.

15 We are presently involved with development in that  
16 immediate area with Donatele and Kline, and with Metropolis, and  
17 with working on redeveloping Clifton Terrace.

18 We have helped Donatele and Kline to develop  
19 Harrison. So we are very -- but now we are working with someone  
20 who is just as concerned about developing the belief in self-  
21 government, and the belief in self-empowerment, and he does that  
22 with panache and aggressiveness.

23 So on the question of us dealing with him on how  
24 the parking is handled, our previous history, where we had a  
25 community meeting to determine how the land next to the parking

1 lot would be used, and the determination was that it was to be for  
2 low income people, and the commitment, and that is done, and it is  
3 solified, and it is moving ahead.

4 And I would just simply point out to you that the  
5 ANC met at its regularly public meeting, at which a quorum was  
6 present, and just listened to the merits as presented, and voted  
7 unanimously to support this application.

8 The same is true of the Cardoza-Shaw Neighborhood  
9 Association unequivocally. That is the kind of support that has  
10 been generated in bringing people together in that community who  
11 had previously found a lot of reasons not to work together.

12 So this is an unusual individual, and an unusual  
13 application, and we would certainly support a bench decision.

14 VICE CHAIRMAN SOCKWELL: Thank you. Any questions  
15 of Mr. Guyot?

16 DIRECTOR KRESS: Yes. The staff has a very big  
17 question. I'm sorry to interrupt, and we need to get this  
18 clarified. We have got two addresses floating on this property,  
19 and it has been advertised as 932, which is on the application.  
20 But as we were going through all of this, it appears to be 1932  
21 Twelfth Street, Northwest.

22 VICE CHAIRMAN SOCKWELL: It would have to be 1932.

23 DIRECTOR KRESS: Unfortunately, their original  
24 application said 932 and it has all been advertised as 932. We  
25 were just noticing that we have got two different sets of numbers

1 running here. The original application and the certification have  
2 932, and not 1932, and unfortunately we advertised it as 932.

3 But then as we pulled up our information and  
4 reviewed it, we have got 1932 on some things and 932. The problem  
5 is that we advertised it as 932, which is incorrect, and 1932 is  
6 correct.

7 VICE CHAIRMAN SOCKWELL: And actually at 932, it  
8 would not indicate to anyone that it is uptown.

9 DIRECTOR KRESS: Well, except for the lot and  
10 square, but people rely on --

11 VICE CHAIRMAN SOCKWELL: But most people don't know  
12 things by lot and square.

13 DIRECTOR KRESS: I am sorry I interrupted you,  
14 because it just came to our attention as we are flipping back and  
15 forth. And our little summary sheet at the top says 932, and then  
16 where we copy what was published, it says 1932. And so it says  
17 932, and that is what drew our attention to it.

18 MEMBER RENSHAW: What does that mean, Ms. Kress?

19 VICE CHAIRMAN SOCKWELL: Well, because it would be  
20 advertised that way and no one would see the additional  
21 information from the file unless they came to the board's offices,  
22 we have a situation where the property looks like it is downtown,  
23 and where it is uptown.

24 MR. GUYOT: Mr. Chairman, may I be heard on that?

25 VICE CHAIRMAN SOCKWELL: Yes, but admittedly the

1 advisory neighborhood commission knows about it and advertised its  
2 meaning, and probably advertised its meeting with the right  
3 address, and those things took place.

4 But it does present a problem for the board.

5 MR. GUYOT: Mr. Chairman, I would hope not. The  
6 reason that notice is provided is to bring as much community  
7 participation on the nexus of the decision.

8 VICE CHAIRMAN SOCKWELL: Of course.

9 MR. GUYOT: It would be impossible for there to  
10 have been more participation in our community on this event. It  
11 was broadly noticed and various groups came in and actively sat  
12 down and negotiated, and talked about what should be done here.

13 There was a meeting at the Islander Restaurant,  
14 which involved a large segment of the community. Our ANC had a  
15 public meeting on it. The community -- the Cardoza-Shaw community  
16 had a public meeting on it. So people had a lot of bites at this  
17 apple.

18 DIRECTOR KRESS: We are looking right now, and I  
19 think it would be imperative to find out if the people within 200  
20 feet that were notified, if they were notified within the 200 feet  
21 of the 900 address, or the 1900 address.

22 VICE CHAIRMAN SOCKWELL: Do you have a copy of the  
23 notice that went out?

24 MR. GROSS: Mr. Chairman, I can assure the court --

25 DIRECTOR KRESS: It says 932. I am just trying to

1 find out where --

2 MR. GROSS: I can assure the board that we provided  
3 the mailing addresses of the property owners within 200 feet. We  
4 provided the addresses for the property owners within 200 feet of  
5 the correct place, yes.

6 MEMBER RENSHAW: And just to note that this  
7 building is more known by its name than it is by its address.

8 MR. GUYOT: And if I may make one other point.

9 VICE CHAIRMAN SOCKWELL: Well, I am not of the  
10 relief that this little multi-story building that no one knows  
11 about would have gone unnoticed at an advisory neighborhood  
12 commission meeting, or through the process by which you bonded  
13 with the community.

14 It's just that I want to make sure -- and we have  
15 to make sure that our procedures don't leave room for some type of  
16 later protest of the way that things were handled.

17 MR. GUYOT: I understand.

18 VICE CHAIRMAN SOCKWELL: And by the slightly  
19 troubled look on Mr. Kressley's face, I don't want him to feel  
20 that --

21 MR. HOOD: Mr. Chairman, due to the latest  
22 development, I still think that we can move expeditiously on this.

23 VICE CHAIRMAN SOCKWELL: Yes.

24 MR. HOOD: Fortunately the 200 people within 200  
25 feet were notified, but I wanted to say a point to Mr. Guyot, an

1 ANC commissioner who stuck around here since -- I think he has  
2 been here since one o'clock.

3 A lot of times we don't hear a lot of good dialogue  
4 between ANC commissioner and an applicant. I want to congratulate  
5 the applicant for working with the ANC, and Mr. Guyot should be  
6 commended and his ANC for sticking this long and staying and  
7 waiting for the hearing since one o'clock.

8 He is not paid, and he is out there working through  
9 the vineyards, and he is doing a good job. So I just wanted to  
10 put that on the record.

11 MR. GUYOT: Mr. Chairman, let me just respond. I  
12 saw Commissioner Kress and Commissioner Hood at a meeting at nine  
13 o'clock in this room on Saturday morning, and so I am simply  
14 following their example.

15 DIRECTOR KRESS: Thank you.

16 VICE CHAIRMAN SOCKWELL: Well, for the fact that I  
17 know you to be a veteran of the process, it is not hard for you.

18 MR. HOOD: Mr. Chairman, I am ready to -- well, are  
19 they finished?

20 MR. SZEGEDY-MASZAK: Mr. Chairman, may I say  
21 something?

22 VICE CHAIRMAN SOCKWELL: Yes, sir.

23 MR. SZEGEDY-MASZAK: I am just trying to think of  
24 how we could cure this notice.

25 DIRECTOR KRESS: I have a question. What about

1 what we did once before, which is where the board went ahead and  
2 made its decision, but as you know the decision is not final until  
3 it is published.

4 And then we immediately published it in the  
5 register, and if there were no comments during that time period,  
6 then the board's order became final, and it was signed.

7 MR. SZEGEDY-MASZAK: Well, there is an other way to  
8 do it, and --

9 VICE CHAIRMAN SOCKWELL: Well, let me say this  
10 before we get into that if I may. The building was posted, and  
11 because the building was posted, it was posted with the right  
12 address on it, I'm sure. And whether it had the right address on  
13 it or not, it was on the building site.

14 So I think that we have probably with one of  
15 several methodologies --

16 DIRECTOR KRESS: Good point.

17 VICE CHAIRMAN SOCKWELL: -- we have made our  
18 proper representation to the community at large, and we have on  
19 occasion made mistakes. So I don't think we really have a problem  
20 with this.

21 MR. SZEGEDY-MASZAK: Mr. Chairman, if you -- well,  
22 we thank you deeply. One thing that could be done -- and I would  
23 ask for a bency decision anyhow, but if a bench decision were  
24 made, and then the bench decision were published in the D.C.  
25 Register for 30 days or whatever, and no comments came in

1 whatsoever, then after 30 days obviously the bench decision would  
2 stand.

3 And if there were comments that came in, then  
4 obviously it was not noticed right, and then we have to go back,  
5 you know. But I think there might be that option, sir.

6 VICE CHAIRMAN SOCKWELL: First, I don't think that  
7 the issue of the parking is one of that level of significance  
8 because you have a waiver of parking and loading. Therefore, the  
9 parking spaces themselves are not part and parcel to the approval  
10 of the True Reformer Building for any of its activities.

11 The parking is merely a use, an accessory use, that  
12 is not contiguous with the project site, and is separated by an  
13 alley, and is within the 200 foot radius for all of its  
14 facilities.

15 Therefore, the issue is not of consequence in that  
16 respect. You had to come here in order to get there, but we don't  
17 have any reason to send you around.

18 MR. SZEGEDY-MASZAK: Okay. Thank you, sir. And  
19 the only other thing is that on behalf of The Public Welfare  
20 Foundation, Mr. Guyot has been of inestimable value. People  
21 like Mr. Guyot are so important in the community because they help  
22 us, and they help people like the Public Welfare Foundation, whose  
23 motives are great.

24 But nonetheless they help us understand better what  
25 the community really wants, which is an impossible task sometimes,

1 Mr. Chairman. So Mr. Guyot has our deepest appreciation. And I  
2 would only simply request that if we could get a bench decision so  
3 that The Public Welfare Foundation can then proceed to the HPRB  
4 and get its approval.

5 VICE CHAIRMAN SOCKWELL: If the staff does not have  
6 an objection, I believe that we can proceed with a bench decision.

7 DIRECTOR KRESS: I agree.

8 VICE CHAIRMAN SOCKWELL: Then I would ask Mr. Hood  
9 to make the motion.

10 MR. HOOD: Mr. Chairman, I would make a motion that  
11 we approve Application Number 16602 for the special exception.  
12 There does not seem to be any adverse impact to the surrounding  
13 area, and with that, I make a motion to approve.

14 DIRECTOR KRESS: Before you second, may I just  
15 suggest that a part of it include all of our standard conditions  
16 that go along with parking lots and that you all are familiar  
17 with. And also do you want to have any time limits on this, or is  
18 this something that you are viewing as a permanent situation?

19 VICE CHAIRMAN SOCKWELL: Well, it could be approved  
20 -- well, because it is accessory parking for the building and not  
21 -- well, for the building by its owner, as opposed to a particular  
22 use for a tenant of the building, although the owner is the tenant  
23 in this case, I don't think we need to condition it with a time  
24 limit. But if we wanted to condition it, I would recommend  
25 nothing less than 10 years.

1                   DIRECTOR KRESS:   The staff has no opinion.  They  
2 just wanted to point that out.

3                   VICE CHAIRMAN SOCKWELL:  I would condition it only  
4 to the extent that as long as the foundation owns the building,  
5 the parking goes with the building.

6                   MR. HOOD:  I will accept that in a motion.

7                   DIRECTOR KRESS:  And do you want the other standard  
8 conditions about keeping it free of debris and the other --

9                   VICE CHAIRMAN SOCKWELL:  Certainly, certainly.  I  
10 mean, that goes without saying, because it would be similar to the  
11 conditions in the previous order for the previous user, which had  
12 expired.  And I don't think that anyone would question that,  
13 because you have already shown through the Sorg and Associates'  
14 design that you are going to provide all of those things.

15                   MR. HOOD:  All right.  With that, Mr. Chairman, I  
16 would make a motion.

17                   VICE CHAIRMAN SOCKWELL:  All right.

18                   MEMBER RENSHAW:  Second.

19                   VICE CHAIRMAN SOCKWELL:  All in favor?

20                   MEMBER RENSHAW:  Aye.

21                   VICE CHAIRMAN SOCKWELL:  Aye.  Abstentions?

22                   (No audible response.)

23                   VICE CHAIRMAN SOCKWELL:  Thank you very much for  
24 your time.

25                   MR. SZEGEDY-MASZAK:  Mr. Chairman, thank you, and

1 Ms. Renshaw, you can rest assured that the employees will be  
2 encouraged to take public transit, whoever can.

3 MEMBER RENSHAW: I'm sure, and I also hope that  
4 this parking lot might be heated. I understand that we are going  
5 to have a messy winter, and if you had a heated lot, you wouldn't  
6 have to plow.

7 VICE CHAIRMAN SOCKWELL: This hearing is now over.

8 (Whereupon, at 6:00 p.m., the hearing was  
9 concluded.)